

**CITY OF NORWALK
ZONING COMMISSION
February 20, 2013**

PRESENT: Emily Wilson, Chair; Mike Mushak; Joe Santo; Jill Jacobson; Jim White; Adam Blank; Nathan Sumpter; Harry Rilling (after the roll call)

STAFF: Mike Wrinn; Dori Wilson; Adam Carsen

OTHERS: Atty Liz Suchy; Maria Genovese; Doug DiVesta; Kate Throckmorton; Mike Galante; Diane Lauricella; Derek Uhlman; Ronald Czebiniak; Jacqueline Sharp; Richard Roina; Atty Frank Zullo; Kevin Polinkis; Diane CeCe; Jeff Hull; Councilwoman Anna Duleep; Andrew Cote; David Forslund; Diane CeCe; Tom Robinson; Linda Troy; Granville Ackerman; Anne Vecchio; Edith Cote

I. CALL TO ORDER

Emily Wilson called the meeting to order at 7:34 p.m.

II. ROLL CALL

Mike Wrinn called the roll call.

III. PUBLIC HEARINGS

a. #17-12R - Muller Park Realty Company LLC- Proposed amendment to add “artists workspace” as anew special permit use in Business #2 zone and b. #9-12SP - Muller Park Realty Company LLC - 30 Muller Ave - Add “artists workspace” as a new special permit use and legalize multiple special permit uses

Emily Wilson opened the public hearing. Atty Suchy began the presentation by first handing in the certified, return receipt cards. She noted that her firm also sent the legal notices by regular mail since many people do not pick up their return receipt letters. She noted that there are two types of applications pending a zoning amendment and a special permit. She noted that a similar amendment had passed through the commission several years prior for an artists’ workspace on Wilson Ave and that it is flourishing. She continued with a PowerPoint slide presentation which showed the history of the property which dated back over 100 years ago.

The owners have decided, instead of demolishing the building, the best thing to do would be to re-use the building. They want to allow artists to use the building, with proper permits. The only changes to the site plan would be that some spaces would be added to the parking and some landscaping. She went over this quickly, telling the commissioners that the landscape architect would go over it in detail.

Maria Genovese, Andriopoulos Design Associates, continued the presentation. Her office documented all of the space in the building. She briefly discussed the uses that were found in the building including manufacturing, wholesale, some retail, and storage. Some of the tenants have permits and some do not which they are hoping to obtain through this process. She asked the commissioners if they would like her to go through the spaces individually, but they had that information in their packets. There were no questions.

Atty Suchy stated that if these applications were approved, the tenants without permits would apply for them as soon as possible.

Doug DiVesta, the civil engineer on the project, continued the presentation. He explained the areas of run-off. Since there is no change to the footprint of the building, there is no increase in the impervious surfaces. He explained the water drainage from the property. He then told the commissioners how the drainage system would be enhanced. They had looked at

the water quality of the run-off from the property before it gets to the Norwalk River. The commissioners did not have any questions.

Kate Throckmorton, of Environmental Land Solutions, the landscape architect, continued the presentation. The landscape plan was developed with the help of the Zoning Department staff as well as the Conservation Commission. They focused on three areas. They were also including tree islands on the property. She discussed the different types of plants and shrubs that would be on the property. Mr. Mushak asked if there was a maintenance plan for the meadow. She said that it would be mowed once a year. He thought that it was great that the applicant was going to have a meadow.

Mike Galante, a principal from Frederick P. Clark & Associates, continued the presentation. Mr. Galante went over the letter report dated November 29, 2012 which was an evaluation of the roadways around the property. He noted that that the building was not a 9-5 type of building. The impact would be spread out over time. There were no questions from the commissioners for Mr. Galante.

After the applicant's presentation was over, Mr. Wrinn noted that there were two letters of support in the file, one from the Chamber of Commerce and one from the Redevelopment Agency. The referral from the Planning Commission was read into the record by Ms. Jacobson.

Diane Lauricella asked the commissioners to add conditions to the permit. One was that the owner and the artists confirm that there is proper disposal of the toxic substances that artists use. She was also pleased to see that the applicant's landscape plan would be using native species and erosion controls.

Derek Uhlman, who said he represented the artist, told the commissioners that artists are given rules before they can work in the building. The first is that there should be no chemicals or solvents used. No aerosol paints can be used and paint thinners should leave the premises in containers. Mr. White suggested that these rules become part of the conditions to approval.

Atty Suchy said that the applicant would abide by all state regulations as to how the property is used. She reiterated what they would do for erosion controls. She believes that the applicant would find new tenants as well if the application is approved to improve the vitality of the neighborhood.

Mr. Blank asked whether the property was in the Aquifer Protection Area (APA). Mr. Blank said that he knew some of the commissioners. Mr. Mushak explained that a plan would be submitted to the APA, detailing how the chemicals would be handled by the tenants. It is highly regulated since it is in the Aquifer protection area. Jill Jacobson read the referral from the Planning Commission.

Emily Wilson closed the public hearing.

c. #11-12R - Zoning Commission - Proposed amendments to add indoor contractor parking facility as a new use in the Industrial No. 1 Zone, Business No. 1 & No. 2 zone and related technical amendments

Emily Wilson opened the public hearing. Dori Wilson said that the Zoning Dept. staff would make the presentation on behalf of the Zoning Commission. The proposed amendments were developed based upon requests by contractors and real estate agents who were having difficulties locating places for contractors to store their equipment. The new definition would allow a structure on a parcel of land with a minimum of 12,500 sq. ft. in size, used solely for the vehicles and equipment for the construction trade. No inside or outside storage of materials would be allowed. The storage of materials is already allowed in a contractor storage yard in these same zones. The proposed use would be permitted as a principal use in Industrial No. 1 Zone and as a special permit in the Business No. 1 and No. 2 zones. Contractor's offices would

also be added as a use in the Business No. 1 zone.

Jill Jacobson read into the record the referrals from the Planning Commission and the Connecticut Coastal Area Management office, both of which supported the proposed amendments.

Ronald Czebiniak, a commercial real estate agent, had comments about the proposed amendments for the commissioners. He asked that the meeting be kept open since there were many people on vacation due to school vacations. Many of them would have liked to add their comments as well. He commended the commissioners for proposing the amendments. Many small businesses had to re-locate some or all of their operations to other cities. By doing so, Norwalk has lost jobs. He discussed numerous points about keeping small businesses in the city, attract new businesses and the vehicles that are parked on residential streets would now have a place to be parked. He reminded the commissioners that small businesses create many new jobs in the city. He told them that these small businesses only have 1-2 vehicles and up to 5 employees. He noted that this proposal would affect minority businesses that are active in the trades. He told the commissioners that the permitting process is onerous and that the total cost, from buying the property through to getting the permit and build out, could cost \$1 million. He asked whether the proposed amendments were "as of right." Dori Wilson said that it was in some zones and in others it was a special permit. He told them that the special permit process was long and expensive.

Mr. Czebiniak then went through the proposed amendment and pointed out to the commissioners what he thought would not work for contractors. One of them was that materials should be allowed to be stored at the site as well. Another question he had was why outdoor parking was not allowed. He told the commissioners that most contractors drove medium duty vehicles. He also had concerns about the 12,500 sq. ft. minimum. He thought it should be deleted since these were small businesses. He noted that all other cities around the area did not have a minimum lot size.

At this point, Mr. Czebiniak passed around a hand-out to the commissioners. He discussed neighborhood business zones which he believed were underutilized. The reason, he believed was because it was a narrow classification. Many of the businesses, that would fit the definition of neighborhood businesses, would not want to be in those zones because they would not want to be in that location. He explained how small businesses helped the local economy by buying their lunches, buying fuel, running errands, etc. in the city. It was one small business helping another while also helping the tax receipts for the city. He urged the commissioners to re-write the proposed amendment because it would not help the contractors.

Mr. Santo asked Mr. Czebiniak how many 5,000 sq. ft. lots there were in Norwalk. Mr. Czebiniak could not recall. Mr. Santo asked him about Kazu Street and how big it was. He also told Mr. Czebiniak that he did not think there were any lots smaller than 10,000 sq. ft. Mr. Blank said that there would have to be some compromise in the size of the lots which would help the contractors as well as the residences that would abut those lots. Mr. Mushak asked the Zoning Department staff in attendance whether they knew the rationale for the 12,500 sq. ft. minimum requirement as well as when it was instituted. Mr. Wrinn said they would try to find out. Mr. Mushak said that he had heard from the staff recently that it was to allow a vegetative buffer to be created. He said that staff had also said that anything less than 12,500 sq. ft. would not allow for vehicles to turn around. Mr. Mushak said that he knew that a 5 ft. strip of arborvitaes could be a vegetative buffer. He also knew that vehicles could be stored in less space. Mr. Mushak now wanted the staff to go into their Zoning Department records to find out what the rationale was when it was passed. He wondered why there had to be a minimum. Mr. Czebiniak agreed with Mr. Mushak and then asked contractors in the audience if a 5,000 sq. ft. lot was too small. No one agreed with that.

Mr. White then said that the 12,500 sq. ft. lot could be subdivided to allow small businesses to work together. He said that a building with that much space could be subdivided as well. He did not think people realized it. Mr. Czebiniak said there are lots in the neighborhood business zones that could be used for contractors. Mr. White said there are residents in those zones that are opposed to it. Mr. Czebiniak mentioned the Martin Luther King area but Mr. White said they would tackle that one in the coming months. There was a discussion about contractor office space which Mr. Czebiniak said was not helpful for the contractors.

Jacqueline Sharp said that she was a lawyer who represented contractors. She said that they did not need offices because either their wives or answering services took messages for them. They need small spaces for trucks and materials. They usually have 1-2 trucks which they need to park. For them, 5,000 sq. ft. would work. She also said that they would go to Bridgeport or Stratford for smaller lots. Those cities are considered business friendly. She had questions about the wording of the proposed amendments which the contractors felt would cost them more money in employee time.

Mr. Mushak asked Ms. Sharp questions about whether Norwalk was business friendly. She said that it was not business friendly to the small plumber or small contractor. Mr. Mushak noted that Norwalk was not business friendly with zoning in relation to other cities. He thought that as a lawyer representing small businesses, Ms. Sharp would know this. She hoped that the commissioners would look at the amendments from the point of view of the contractors.

Diane Lauricella commended the commissioners about proposing the amendments. She asked that, if they were sent back to committee, her comments be included in the revised amendments. Her comments included discouraging industrial use zones from any other use. She thought there were so few of these zones and their use should be for that alone. She wanted them to be used for clean industry and not for contractor's use. She was concerned about the chemicals that contractors used. She asked that there should be no floor drains and if there are floor drains, they should be closed in these zones. Although Fire Marshalls were supposed to regulate this, she believed that since there were so few, it would not be properly regulated. She also volunteered to write language for the regulations. She also wanted a condition about setting a time restriction to deal with the noise. Mr. Mushak thought that they should follow the noise ordinances. She appreciated the other speakers and hoped that the commissioners would follow their suggestions. She requested that the proposed amendments be sent back to committee.

Richard Roina, an attorney who represented clients that had property in the restricted industrial zone, spoke on behalf of these clients. The two properties were over 40,000 sq. ft but underutilized because they could not get legal tenants. He asked the commissioners to add the restricted industrial zone to the zone change. He explained where the parcels were and what they looked like. He thought they would be ideal for the contractors' yards.

Atty Frank Zullo, who was in attendance at the meeting on another matter, voiced his opinion on this one. He said it was difficult to create contractors yards because many of the commercial areas abut residential ones. He also commended the commissioners for taking on the task of drafting the proposed amendments.

He thought it was important for the city to have contractor type businesses so that they could be independent. He also had questions about the language in the proposed amendments. He did not understand how some of it would work from the way it was written. He had questions about why some were special permits and some were not. He thought that the process for a special permit could get very expensive. He asked for some clarification of the items that he had discussed.

Mr. Mushak asked Atty Zullo several questions. First, he asked Atty Zullo if he knew when the current regulations had taken effect and why there was a minimum of 12,500 sq. ft.

He explained how the minimum was chosen in that the commissioners had wanted to create a buffer since commercial and residential zones were close to one another. He did not know why it was that specific number. Mr. Mushak asked Atty Zullo if he thought that the city was restrictive when other cities did not. Atty Zullo said that he was proud of the city and would not compare them to other cities. He also explained how residents might not want to live next to a contractor's yard. Mr. Mushak thought that people living in these zones knew that there could be extra noise on the road. Atty Zullo said that these people would eventually oppose it. He reminded Mr. Mushak once again that contractor's yards are not well received. Mr. Mushak was surprised, though, that the public had not attended the hearing to voice their opinions about the contractors' yards.

Kevin Polinkis, 32 Perry Avenue, told the commissioners that he had a L-shaped property. He has tried to use the small part of the L-shape with no luck. It sits, undeveloped. He would like to have contractors use it but it is not legal in the city at this time. Mr. Blank and Mr. Wrinn explained how Mr. Polinkis could use the smaller part of the L-shaped piece of property. Mr. Polinkis thought that the minimum could be smaller than 12,500 sq. ft. He was unhappy that he had been paying taxes on a piece of property that he could not use.

Diane CeCe spoke in support of the proposed amendments. She, however, wondered whether there would be another public hearing if this application was revised to include new zoning districts or smaller lot sizes. She was told there would be.

Emily Wilson closed the public hearing.

Mr. Mushak informed the members of the audience that if they were not there for the application about beekeeping, then they could leave.

d. #15-12R - Zoning Commission - Proposed amendments to Article 30 to limit the number of beehives permitted in residence zones

Emily Wilson opened the public hearing. Dori Wilson began the presentation. She said that this application was begun upon the request of a neighbor of a beekeeper. The proposed amendments recommend two beehives per quarter acre. If anyone has a permit already, they are grandfathered in under the proposed amendment.

Jeff Hull, 125 Silvermine Avenue, a neighbor of Andrew Cote, a beekeeper, said that he has never had a problem with the bees. He told the commissioners that bees have been kept in the city commercially for 3 ½ centuries without problems. He believed the problems were not with the bees but rather, the beekeeper. He thought that the commissioners should not be proposing amendments because they did not know about farming. He also thought the amendments violated Connecticut's Right to Farm Law. He thought that the commissioners should have looked at advice from the U.S. Department of Agriculture ("U.S.D.A"), not beekeeper hobbyist's societies. Mr. Hull said that he had done some of his own research about what bees needed. He could not find any literature to suggest that having 2 hives constitutes being a commercial beekeeper. He also suggested that livestock density should not be regulated. He did not think the commissioners should be wasting their time on this issue.

Councilwoman Anna Duleep, 3 Briarwood Road, did not speak for or against the proposed amendments. She is a neighbor of the property and has heard from both sides. She was in attendance to find out more about the amendment. She said that she believes there is a resurgence in residents growing their own food. She also said that she would relay to her colleagues whether the commissioners felt that there were issues that might be more appropriately addressed by the Common Council.

Mr. Blank said that during a committee meeting they had exchanges with Council

Members Kimmel and Ignieri. They had also done research with the Bee Lab in Minnesota, a preeminent scholarly authority on beekeeping. The commissioners were advised to review the ordinances of Minneapolis. Those ordinances were more comprehensive than the ones that the commissioners were proposing. He asked her to look into that with the Common Council. She was not sure what she could get done. She asked whether this would be limited to bees and not actual farming. Mr. Blank and the other commissioners agreed that this amendment was only for beekeeping. Mr. White asked if any of this was regulated by the Health Department. Mr. Wrinn said there was not anything specific except for safety issues.

Diane Lauricella commended the commissioners for tackling this issue. She asked that the commissioners send the proposed amendments back to committee for further review. She advised them to look at a few points that included a review by the Health Department to allow them their own due diligence. She also asked that the Health, Safety and Welfare Committee of the Common Council be allowed to discuss this matter along with the Board of Health and the Health Department. She asked them to do research with the state Agriculture Department and the U.S.D.A. Ms. Lauricella said that she has seen the property. She has also been approached by residents about health and safety issues. She suggested that the owner of the beehives should have them on a property that was larger because she thought that they posed a threat to the neighborhood. She also thought the density of the bees could cause diseases to them.

Andrew Cote, 127 Silvermine Avenue and owner of beehives, told the commissioners that beekeeping was his only source of income. He also told them that the honeybees are not dangerous and if they are, it is because someone kicked the beehive. He explained the travels of the bees. He has also put up bamboo and fences, etc. because he is aware of the issues that have arisen with his neighbors. The Connecticut bee inspector has not found a problem. He noted that although he did not think that anyone would have more than 2 hives, the city needed good beekeepers. He told the commissioners that Connecticut produced more food than was widely thought. The pollination was helped with his bees. He explained that the number of hives varied depending on certain conditions, such as the season. He understood why they could not find many regulations in other cities. Beekeeping was not regulated in many places, including New York City. He did not think that it was fair to regulate the number and amount of space that one could keep hives in, even though his hives were grandfathered in. He also noted the long history of beekeeping in Norwalk. He thought the commissioners would regret regulating the beekeeping industry.

Mr. Santo told Mr. Cote that he thought that his beekeeping was an industrial use and that his property was a mess. He asked about the school bus that was on Mr. Cote's property. He said it is intended to be used as a mobile apiary. The bus would bring the hives to school to show schoolchildren. Mr. Santo said that he had driven passed Mr. Cote's house. He suggested that if he cleaned up the yard, Mr. Cote would not have this problem.

Mr. Blank said that he thought the Connecticut bee inspector only inspected for diseases. Mr. Cote said this was not entirely true. The Connecticut bee inspector also inspects for good beekeeping practices such as good flight patterns, etc. He encouraged Mr. Blank to call the bee inspector so that he could find out that the bees pose no threat to anyone. Mr. Blank told him the purpose of the regulations was to limit the conflicts between those raising the bees and neighbors. He suggested to Mr. Cote that he find other places to keep the bees such as a nature preserve.

Mr. Cote said that he intended to decrease the number of hives and had removed the buckets in the backyard. Mr. Santo said that he had seen buckets when he drove by. Mr. Cote and Mr. Santo discussed a photo they both seen of bees. Mr. Cote said they were not his honeybees. Mr. Mushak asked whether he bottled the honey on his property. Mr. Cote said he did. Mr. Mushak asked several questions to staff about manufacturing, bottling and livestock.

Mr. Wrinn said that it was a permitted use for Mr. Cote to bottle the honey on his site.

David Forslund, who lived adjacent to the property on Silvermine Ave., said that he had trouble with the bees and wondered how many were necessary on a quarter acre. It has been a nuisance to him. He didn't want to see this happen elsewhere.

Diane CeCe, Olmstead Place, wondered, after hearing the presentation and comments from the public, thought this matter should go to the ordinance committee. Mr. Blank responded by saying that when the issue first arose, the commissioners realized that it was multifaceted. They did not see how they could regulate blight with respect to bees so they opted to regulate the bees. They then did their research and came up with the proposed amendments.

Tom Robinson, a beekeeper in Rowayton, spoke about the beekeeping hobby. His neighbors that have flowers love the bees. He only has two hives. Mr. Robinson invited the commissioners to see his hives. He said that the bees do not want to hurt people.

Linda Troy, Walnut Avenue, spoke about the hive that was on the Congregation Church. She said that Mr. Cote was called to remove it which he did. The bees were relocated to New York. Bees keep everyone alive by helping to produce food. She would rather live with bees than next to the neighbor who started this situation.

Granville Ackerman, a neighbor of the Andrew Cote, was happy, at first, for Mr. Cote's designation as a farm. He then saw the property become transformed into a warehousing center with trucks coming in and out of the area. Mr. Ackerman believed that honey was being brought to the site as well as leaving the property. He thought the clutter on the property was unattractive. He thought that there should be an ordinance which would then help protect their property values. He did not believe that Mr. Cote lived at the house because he never sees the lights on at night. He did not like that there was a manufacturing process going on in a residential neighborhood.

Anne Vecchio said that if the issue was about the way the property looked then why should it be about the bees. She did wonder how many people in Norwalk had a quarter acre to keep bees on. She didn't think it should be regulated. She explained about the queen bees, drones and swarms. She assured the commissioners that Mr. Cote did live at the house.

One gentleman, who did not give his name, and lived at 118 Silvermine Avenue, said the driveway and porch were full of equipment. He said he has never seen activity in the house. He even saw on CNN that Mr. Cote had said that he sold bee equipment on the smallest bee farm in Connecticut. He has been bitten by bees and is concerned for himself and his children.

Edith Cote, Andrew Cote's mother, spoke to the commissioners. She thought that the public hearing had turned into an Andrew bash. She said the hives vary with the season and who needs there. She told everyone that Mr. Cote does live in the house. Since he is a farmer he goes to bed early and wakes up early. She wondered what type of building the commissioners expected the bees to be kept in. She told them that Mr. Cote did have an apartment in New York because he travels back and forth to maintain hives there.

Emily Wilson closed the public hearing.

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

a. #2-13SPR/#2-13CAM - CP IV Waypointe BP, LLC - 515 West Av/Orchard/Merwin St - Modified site plan for 474,066 sf mixed use development with 341 multifamily units, 39,462 sf retail, 11,550 sf restaurant & 852 pkg. spaces in a design district development park - Report & recommended action

**** MR. BLANK MOVED: BE IT RESOLVED** that site plan application **#2-13SPR** and coastal site plan application **#2-13CAM** - CP IV Waypointe BP, LLC/Belray Development, LLC - 467, 501, 507, 509, 523 & 525 West Avenue/2, 4, 10, 15, 16 & 18 Merwin Street/7, 9, 11, 15, 19, 21, 23, 25, 27 & 33 Orchard Street/17 Butler Street entitled Waypointe Phase 1: 474,066 sq. ft. mixed use development with buildings ranging in height from 4-5 stories with 341 multifamily housing units, 39,462 sq ft of retail, 11,550 sq. ft. restaurant and a 852 space parking garage within a Design District Development Park as shown on a set of plans entitled "Zoning Site Plan for CP IV Waypointe BP, LLC Waypointe mixed use development at 515 West Avenue" by Gooding Architecture, LLP; Redniss and Mead Engineers & Didona Landscape, dated February 8, 2013, be **APPROVED**, subject to the following conditions:

1. That the landscape plan as revised to show a board fence along the eastern and southern property line of the midblock parcels, be made a part of this approval; and
2. That all site improvements shown on the above-referenced plans are the applicant's responsibility including flush paver crosswalks, granite curbs, moveable furniture and any street improvement upgrades; and
3. That the deed restriction documents referenced in the "CP IV Waypointe BP LLC Draft Affordability Plan" dated revised February 11, 2013 for a total of 35 deed restricted workforce housing units, including 5 offsite units at 33 Orchard Street, be submitted for Corporation Counsel review and then filed on the Norwalk Land Records and that all such workforce housing units be deed restricted in perpetuity and meet all requirements of Section 118-1050 Workforce Housing regulations; and
4. That development park agreements between the midblock parcel and the southern and northern parcels in the Waypointe Design District Development Park allowing the transfer of development rights to permit an increase in residential density and an increase in permitted FAR for the midblock 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 the stormwater maintenance plan and green roof maintenance plan, including the annual maintenance schedule, be made a part of this approval to verify that the proposed subsurface infiltration system is 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
11. That shuttle bus service to the train station during peak hours be provided; and
12. That a motion detector be added to the top level of the parking garage so that any lights not required to meet minimum code requirements will be turned off during the evening hours except when needed for use by residents; 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 with Section 118-504 Central Business Design District Design District Development Park in Subarea B and with 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 1, 2013.

**** MR. SANTO SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

b. #3-13SPR/#3-13CAM - CP IV Waypointe BP, LLC - 11 Merwin St - Modified site plan for 140,978 sf mixed use development with 98 multifamily units, 4,615 sf retail, 4,000 sf restaurant & 174 pkg. spaces in a design district development park - Report & recommended action

**** MR. RILLING MOVED: BE IT RESOLVED** that site plan application **#3-13SPR** and coastal site plan application **#3-13CAM** - NW MFP Norwalk Town Ctr III, LLC - 2, 4, 10, 15, 16 & 18 Merwin St/467, 501, 507, 509, 523 & 525 West Avenue/7, 9, 11, 15, 19, 21, 23, 25, 27 & 33 Orchard St/17 Butler St entitled Waypointe Phase II for a - Modified site plan for 140,978 sf mixed use development with 98 multifamily units (55 one bedroom & 43 2 bedroom), 4,615 sf retail, 4,000 sf restaurant; 16,686 sq ft storage and a 159 space parking garage with a 15 space surface lot within a Design District Development Park as shown on a set of plans entitled "Zoning Site Plan depicting 11 Merwin Street Norwalk, CT" prepared for CP IV Waypointe BP LLC by Redniss and Mead Engineers; Gooding Architecture, LLP and Didona Landscape and dated revised to February 7, 2013, be approved, subject to the following conditions:

1. That the architectural design as revised to continue the cornice along both the eastern and northern facades of the parking garage building, be made a part of this approval; and
2. That all site improvements shown on the above-referenced plans are the applicant's responsibility including flush paver crosswalks, granite curbs, moveable furniture and any street improvement upgrades; and
3. That the deed restriction documents referenced in the "CP IV Waypointe BP LLC Draft Affordability Plan 11 Merwin Street" dated revised February 11, 2013 for a total of 10 deed restricted workforce housing units, be submitted for Corporation Counsel review and then filed on the Norwalk Land Records and that all such workforce housing units be deed restricted in perpetuity and meet all requirements of Section 118-1050 Workforce Housing regulations; and
4. That development park agreements between the northern parcel and the midblock and southern parcels in the Waypointe Design District Development Park allowing the transfer of development rights to permit an increase in residential density, an increase in permitted FAR and shared parking 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 the stormwater maintenance plan and green roof maintenance plan, including the annual maintenance schedule, be made a part of this approval to verify that the proposed subsurface infiltration system is 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

11. That shuttle bus service to the train station during peak hours be provided; and

12. That trash pick-up be restricted to the hours between 8:00 a.m. and 8:00 p.m.; and

13. That the parking garage be available to the public at no charge from 8:00 a.m. until 12:00 p.m. on Sundays; and

14. That all on-site lights be full cut-off fixtures; and

15. That a motion detector be added to the top level of the parking garage so that any lights not required to meet minimum code requirements will be turned off during the evening hours except when needed for use by residents; 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 with Section 118-504 Central Business Design District Design District Development Park in Subarea 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 March 1, 2013.

**** MR. SUMPTER SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

c. #14-09SP - Norwalk Hospital - 24 Maple St - 626 space parking garage - Request for release of surety - Report & recommended action

**** MR. SUMPTER MOVED: BE IT RESOLVED** that the request to release the surety held for Special Permit application #14-09SP; Norwalk Hospital Association, 34 Maple Street; new 628 space parking garage and related site improvements as shown on a certain set of plans and related drawings entitled "Norwalk Hospital New Parking Deck Norwalk, Connecticut" by Freeman White, Inc.; Vanasse Hangen Brustlin, Inc. dated March 3, 2010, as modified in accordance with revised plans entitled "Norwalk Hospital Parking Structure: Design Update" and dated October 14, 2010, be **APPROVED** subject to the following condition:

1. That a maintenance surety be retained for a period of one year to ensure that the recommended improvements are properly maintained; and

BE IT FURTHER RESOLVED that the effective date of this action be March 1, 2013.

**** MR. RILLING SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

d. #2-03SP/#6-03CAM - City of Norwalk - Calf Pasture Beach Rd - Full service restaurant - Request for 1 year extension of approval time - Report & recommended action

**** MR. SUMPTER MOVED: BE IT RESOLVED** that the request for a one year extension of approval time for special permit #2-03SP/#6-03CAM - City of Norwalk - Calf Pasture Beach Concession as shown on various plans by Robert Storm Architects dated revised to February 11, 2003, be approved, subject to the following conditions:

1. That the original conditions of approval remain in effect; and
2. That the new approval deadline for obtaining permits will be March 31, 2014; and

BE IT FURTHER RESOLVED that the effective date of this action be March 1, 2013.

**** MR. SANTO SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

V. REPORT OF ZONING COMMITTEE, ADAM BLANK, CHAIR

a. Action on Items III. a., b., c. and d. Note: Action on zoning amendment must precede action on special permit

i. #17-12R - Muller Park Realty Company LLC- Proposed amendment to add “artist workspace” as anew special permit use in Business #2 zone and b.

**** MR. BLANK MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "#17-12R - Muller Park Realty Company LLC - Proposed amendments to Section 118-522 to permit artist workspace in existing buildings by special permit in Business #2 zones" and dated November 14, 2012, be **APPROVED.**

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

1. To implement the Plan of Conservation and Development policy to “Consider redevelopment of industrial property north of Muller Ave and west of the Danbury branch line” (A.6.3.1, p.13); and
2. To implement the Plan of Conservation and Development policy 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 March 1, 2013.

**** MR. SANTO SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

ii. #9-12SP - Muller Park Realty Company LLC - 30 Muller Ave - Add “artist workspace” as a new special permit use and legalize multiple special permit uses

**** MR. BLANK MOVED: BE IT RESOLVED THAT APPLICATION # 9-12 SP**, submitted by Muller Park Realty Company, LLC for a artists workshop and legalizing existing other special permit users, as shown on various plans by Environmental Land Solutions, Norwalk, CT dated 11/12/13 and revised to, floor plans by ADA Architects, Norwalk CT and plans by Arcamone Surveyors, Norwalk, CT be **APPROVED** with the following conditions:

1. That any and all graffiti on the site (current or future) be removed immediately; and
2. That all landscaping and site improvements are required to be maintained in good as approved for the life of the project; and
3. That filters be placed in each onsite CB and an acceptable long term maintenance plan be submitted and followed; and
4. **With the fourth condition as set forth in the application with reference to the disposal of hazardous materials.**

BE IT FURTHER RESOLVED that the proposal complies with the applicable sections of the Norwalk Building Zone Regulations, specifically Sections 118-522 Business #2, and 118-1450, Special Permits: and

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

BE IT FURTHER RESOLVED that the effective date of this approval shall be March 1, 2013.

**** MR. SUMPTER SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

iii. #11-12R - Zoning Commission - Proposed amendments to add indoor contractor parking facility as a new use in the Industrial No. 1 Zone, Business No. 1 & No. 2 zone and related technical amendments

**** MR. BLANK MOVED TO TABLE THE APPLICATION AND SEND IT BACK TO THE ZONING COMMITTEE.**

**** MR. MUSHAK SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

iv. #15-12R - Zoning Commission - Proposed amendments to Article 30 to limit the number of beehives permitted in residence zones

**** MR. BLANK MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "#15-12R - Zoning Commission - Proposed amendments to Article 30 to limit the number of beehives permitted in residence zones" and dated November 14, 2012, be **APPROVED**.

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

- 1) To implement the Plan of Conservation and Development policy to "Limit the social programs and businesses allowed in residential zones" (F.2.2.2, p. 42); and
- 2) To implement the Plan of Conservation and Development goal to "Protect residential neighborhoods from incompatible development" (A.1.1.6, p. 10); and

BE IT FURTHER RESOLVED that the effective date of this action be March 1, 2013.

**** MR. SANTO SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

b. #13-12R - Lowe's Home Centers, Inc. - Proposed amendments to add a new definition and parking requirement for retail home improvement stores - Report & recommended action

At this point in the meeting, Mr. Mushak recused himself and left the room.

**** MR. BLANK MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "#13-12R - Lowe's Home Centers, Inc. - Proposed amendments to add a new definition and parking requirement for retail home improvement stores" and dated November 14, 2012, be **APPROVED**.

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

- 1) To implement the Plan of Conservation & Development goal to "Support economic growth in the city with appropriate parking strategies" (E.5.1, p.39); and
- 2) To implement the Plan of Conservation and Development policy to "Continue to survey the parking provided for existing buildings and uses to evaluate the adequacy of existing parking standards (E.5.1.5, p. 39); and
- 3) To implement the Plan of Conservation and Development policy 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 March 1, 2013.

**** MS. JACOBSON SECONDED.**
**** MOTION PASSED (6-0).**

c. #8-12SP - Lowe's Home Centers, Inc. - 80 - 100 Connecticut Avenue - New 1 story, ±135,000 sq. ft. retail home improvement store with garden center and outdoor display areas - Report & recommended action

**** MR. SUMPTER MOVED: RESOLVED THAT APPLICATION # 8-12SP**, submitted by Lowes Home Centers, Inc for a 135,000 SF one story high bay retail home improvement store with a garden center and outdoor display areas, as shown on various plans by Langan Environmental & Environmental Services, New Haven, CT dated 02/01/2012, revised to 01/04/2013 be approved with the following conditions:

1. That a surety, in an amount to be determined by staff, be submitted to guarantee the installation of the required improvements; and
2. That any and all graffiti on the site (current or future) be removed immediately; and
3. That all landscaping and site improvements are required to be maintained in good as approved for the life of the project; and
4. That a follow up traffic study (which includes a new warrant study for stop signs as previously submitted) be submitted for Zoning Commission within six (6) months of the store opening; and
5. That a separate surety (in the amount of \$30,000) be submitted to guarantee the installation of crosswalks and stop signs if the follow-up traffic study shows that warrants for stop signs have been met at the following locations (Frost Street at Clinton; Frost Street at Stuart; Stuart, Truman and Benedict Streets; Stuart Ave, Phillips Street, Stevens Street and Magnolia, and
6. That the landscaping plan be modified to add additional street trees at 30' on center along Clinton Avenue, between Connecticut Avenue and the proposed entrance; and
7. That the proposed landscaping plan along the fence inset area along Frost Street be duplicated at the corner of Frost Street and Clinton Avenue and again at the second fence inset area; and
8. That there be no advertising signs in the area dedicated for outdoor sales and that the height of items stored in these areas be limited to 15'; and
9. That the height of any storage in the garden center be restricted to the height of the proposed chain link screening fence; and
10. That the new sidewalk on Frost Street continues east to connect with the existing sidewalk on the adjacent property; and
11. That the pickup for dumpsters on the site be limited to between 7:00 AM and 6:00 PM.
12. That delivery trucks be limited to the hours between 7:00 AM and 6:00 PM.
13. That any test on emergency generators be restricted to the hours of 11:00 AM to 1:00 PM
14. That any construction on the site be completed by 8:00 PM each day and that the project remain in compliance with the City Noise Ordinance; and

BE IT FURTHER RESOLVED that the proposal complies with the applicable sections of the Norwalk Building Zone Regulations, specifically Sections 118-522 Business #2, and 118-1450, Special Permits; and

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

BE IT FURTHER RESOLVED that the effective date of this approval shall be March 1, 2013.

**** MR. WHITE SECONDED.**

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

VI. APPROVAL OF MINUTES:

Mr. Mushak returned to the room.

MR. SANTO MADE A MOTION TO APPROVE THE MINUTES.

**** MS. JACOBSON SECONDED THE MOTION
** MOTION PASSED (6-0)**

VII. COMMENTS OF DIRECTOR

Mr. Wrinn had no comments.

IX. COMMENTS OF COMMISSIONERS

There were no comments from the commissioners.

X. ADJOURNMENT

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

The meeting was adjourned at 10:14 p.m.

Respectfully submitted,

Diana Palmentiero