

**CITY OF NORWALK  
PLANNING COMMISSION  
September 19, 2017**

**PRESENT:** David Davidson; Brian Baxendale; Steven Ferguson; Fran DiMeglio; Michael Mushak; George Tsiranides; Tamsen Langalis; Nora King (left at 9:52 p.m. after noting that she would approve the minutes)

**STAFF:** Steve Kleppin; Mike Wrinn

**OTHERS:** Atty Al Vasco; Dean Martin; Brett Dixon

**I. CALL TO ORDER**

Ms. DiMeglio called the meeting to order at 8:21 p.m.

**II. ROLL CALL**

Mr. Kleppin called the roll.

**III. PUBLIC HEARINGS**

**a) Subdivision #3647 – Two St. James Place, LLC – Westmere Avenue – 2 Lots**

Ms. DiMeglio opened the public hearing by explaining how it worked. Atty Vasco opened the presentation by handing in the certified return receipt cards, evidencing notice of the public hearing to the abutting neighbors. He oriented the commissioners as to the location of the property on an aerial map. He explained that the lot met the zoning requirements. He also explained where the structures would be located on the lots and that they had obtained all necessary sign-offs. The applicant was requesting the waiver of sidewalks.

Dean Martin continued the presentation by showing the commissioners the site plan and explaining the drainage from the property. He discussed the landscape plan and the driveways. There was a concern about the removal of a historic wall. The applicant said that he did not want to remove the walls, but had to remove some of it because of the sight lines. He had no intention of removing all of them. There was a discussion about the passway on the property. Atty Vasco said that the lots would meet setbacks. There was a discussion about garages on the properties as well as vegetative buffer between the houses. There was a discussion about the ground percolation test for this site.

Brett Dixon, member of Board of Directors of Belle Island, noted that there were policies about the passways and that the property must be in compliance with them. The passways were used for neighbors of Belle Island.

There was a discussion about the possibility of using asphalt on the driveways. There was a concern about the water draining into the ground.

Atty Vasco noted that the applicant would keep the passways clear. He also addressed a letter from a neighbor who was concerned about the size of the possible house to be built. Mr. Wrinn passed out a copy of the letter to the commissioners.

Ms. DiMeglio closed the public hearing.

#### **IV. REPORT OF SUBDIVISION COMMITTEE, GEORGE TSIRANIDES, Chair**

##### **a) Action on III. a.**

##### **i) Subdivision #3647 – Two St. James Place, LLC – Westmere Avenue – 2 Lots**

**\*\*\* MR. TSIRANIDES MOVED: BE IT RESOLVED** that subdivision application #3647 submitted by Two St. James Place, LLC, at Westmere Avenue (33 Yarmouth Road) and as shown on a plan entitled "Preliminary Subdivision Utility Map of a Property Prepared for Survey and Resubdivision Map Prepared for Two St. James Place, LLC, Westmere Avenue, Rowayton, Connecticut," Scale 1" = 10', dated 5/9/1017 and certified "Substantially Correct" by Arcamone Land Surveyors, LLC, Norwalk, CT, Wayne Arcamone Land Surveyor – Connecticut Registration No. 15773 be **APPROVED** subject to the following reasons:

1. That all required soil and sedimentation controls be in place prior to any site work; and
2. That any additional soil erosion and sedimentation controls deemed necessary by the staff be installed at the direction of the staff; and
3. 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
4. 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
5. That the proposed drainage system, when installed, be maintained to work at full capacity; and

6. That the maintenance of the proposed drainage system be noted on the final subdivision map; and

7. That the maintenance of the proposed drainage system be noted on all zoning permits; and

**BE IT FURTHER RESOLVED** that waiver requested for the installation of sidewalks be **APPROVED**; and

**BE IT FURTHER RESOLVED** that waiver requested for the installation of curbs be **APPROVED**; and

**BE IT FURTHER RESOLVED** that the street tree requirement not be waived and that five (5) street trees be installed and that where practical, any existing street trees which meet the street tree requirements, be retained, be protected during construction, and utilized towards the street tree requirement; and

**BE IT FURTHER RESOLVED** that the effective date of this approval shall be September 29, 2017.

**Ms. King seconded.**

Before the commissioners voted on the resolution, Mr. Ferguson asked that it be noted that there were no trees, but rather, tall bushes on the property.

**David Davidson; Brian Baxendale; Steven Ferguson; Fran DiMeglio; Michael Mushak; George Tsiranides; Nora King; Tamsen Langalis voted in favor.**

**No one opposed.**

**No one abstained.**

The meeting re-adjourned at 9:13 p.m.

## **V. REPORT OF LAND USE COMMITTEE, Steven Ferguson, Chair**

### **Referrals – Report & recommendation**

#### **a) 8-24 Review – Department of Public Works – 60 South Smith Street - Request to review and approve Walk Bridge Project easements**

**\*\*\* MR. FERGUSON MOVED: BE IT RESOLVED** by the Norwalk Planning Commission that the 8-24 Review submitted by the Department of Public Works – 60 South Smith Street - Request to review and approve Walk Bridge Project easements be **APPROVED** and that the Commission finds that the proposed 8-24 request is consistent with the

Plan of Conservation & Development for Norwalk and that the reasons for this action are:

1. To implement the Plan of Conservation and Development goal to "Provide an efficient and effect system of transportation." (E.1.1. p.36); and
2. To implement the Plan of Conservation and Development goal to "Bridges and roadways over navigable waterways should be maintained, operated, repaired, built to avoid or reduce potential for any significant adverse impacts on navigation, safety, environmental quality." (E.4.1.4. p.38); and
3. To implement the Plan of Conservation and Development goal to "Provide stability in land use and zoning." (F.2.1.2. p 42); and

**BE IT FURTHER RESOLVED** that notice of this action be forwarded to the Common Council.

**Mr. Tsiranides seconded.**

Before the commissioners voted on this resolution, there was some discussion. Mr. Davidson and Ms. King said they would not approve it. Because of this Ms. DiMeglio requested that the vote be done by a roll call. There was a discussion as to their votes on the easements.

**Brian Baxendale; Steven Ferguson; Fran DiMeglio; Michael Mushak; and George Tsiranides voted in favor.**  
**Nora King, David Davidson and Tamsen Langalis opposed.**  
**No one abstained.**

**b) Special Capital Appropriation – Law Department – Amendment to prior appropriation from \$1.2 million to \$1.65 million for an inverse condemnation judgment (related to the new Police Headquarters)**

**\*\*\* MR. FERGUSON MOVED: BE IT FURTHER RESOLVED** that pursuant to §30-11 of the Norwalk City Code, the Planning Commission **APPROVED** the request by the Law Department for a Special Appropriation amendment from the original \$1,200,000 to the amount of \$1,650,000, and bond resolution, pursuant to the settlement of the claim known as Barton, et al v. City of Norwalk; and

**BE IT FURTHER RESOLVED** that notice of this action be forwarded to the Common Council and other appropriate agencies;

**Ms. King seconded.**

Before the commissioners voted on this resolution, there was some discussion. Mr. Davidson reiterated what he had said in the Land Use Committee meeting, that he thought this would burden future taxpayers. He believed that part of the settlement should be an operating expense and not a capital expense. It could come from the surplus or the operating budget. There was a discussion as to the decisions made by past administrations which allowed this to happen. Mr. Davidson noted that Mr. Barron acknowledged that Mr. Davidson was correct in how it should have been handled.

**Steven Ferguson; Fran DiMeglio; Michael Mushak; George Tsiranides; Nora King voted in favor.**

**David Davidson, Tamsen Langalis, and Brian Baxendale opposed.**

**No one abstained.**

**c) Zoning Commission referral: #1-17M - Cumberland Farms, Inc. – 2-4 West Main St./125-131 Main St. – Proposed change to Building Zone Map from D Residence in part & Business #2 in part to entirely Business #2 zone**

Before the resolution was put forth, the commissioners decided to discuss whether they would approve or deny the application. Mr. Kleppin advised the commissioners that this resolution and the next one could be held over until the October meeting if they did not want to take action at this meeting. There was a discussion also about the two different resolutions. Ms. DiMeglio stepped out of the room for a few minutes during this discussion. After she returned, all of the commissioners agreed that they would support a resolution to deny the application.

**\*\*\* MR. FERGUSON MOVED: BE IT RESOLVED** that the proposed changes to the Building Zone Map as shown on a certain document entitled "**#1-17M – Cumberland Farms, Inc. - 2-4 West Main St/125-131Main St - Proposed change to the Building Zone Map from D Residence in part and Business #2 in part to entirely Business #2**" and dated July 20, 2017 affecting property located in the First Taxing District, Block 68, Lots 1, 2, 3, 4, 22 and 23 including property now part of the West Main Street and Main Street ROW, all of which is now zoned D Residence in part and Business #2 in part and is proposed for change to Business #2 zone in its entirety, be **DENIED**.

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

1. To implement the Plan of Conservation and Development ("POCD") policy to "Preserve and enhance the character of Norwalk" (A.1.1.4, p. 10);
2. To implement the Plan of Conservation and Development policy to "Preserve the character of residential neighborhoods by minimizing traffic impacts from surrounding uses" (E.3.2, p. 37); and
3. The proposed zone change is *not consistent* with the Plan of Conservation and Development recommendations of the Westport-North-Main Corridor Study "Limit

high-traffic generating uses in light of the vehicular traffic restrictions on this street." (E.3.1.11, POCD p. 37 and Corridor Study p. 10) ; and

**BE IT FURTHER RESOLVED** that notice of this action be forwarded to the Norwalk Zoning Commission.

**Mr. Davidson seconded.**

**David Davidson; Brian Baxendale; Steven Ferguson; Fran DiMeglio; Michael Mushak; George Tsiranides; Nora King; Tamsen Langalis voted in favor.**

**No one opposed.**

**No one abstained.**

**c) Zoning Commission referral: #7-17R - Cumberland Farms, Inc. – Proposed amendments to the Building Zone Regulations to remove text regarding a minimum distance of two thousand (2000) feet between gas stations**

At this point, the commissioners decided to discuss whether they should approve or deny the application.

**\*\*\* MR. FERGUSON MOVED: BE IT RESOLVED** that the proposed amendments to the Building Zone Regulations as shown on a certain document entitled "**#7-17R – Cumberland Farms, Inc. – Proposed amendments to Section 118-1010 to remove text regarding a minimum distance of two thousand (2000) feet between gas stations**" and dated July 20, 2017 **as revised to September 18, 2017** to revise the current zoning regulation **to delete the text** requiring a minimum of two thousand (2,000) feet between retail gasoline station uses, be **DENIED**.

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

1. To implement the Plan of Conservation and Development policy to "Preserve and enhance the character of Norwalk" (A.1.1.4, p. 10);
2. To implement the Plan of Conservation and Development policy to "Preserve the character of residential neighborhoods by minimizing traffic impacts from surrounding uses" (E.3.2, p. 37); and
3. The proposed zone change is *not consistent* with the Plan of Conservation and Development recommendations of the Westport-North-Main Corridor Study to "Limit high-traffic generating uses in light of the vehicular traffic restrictions on this street." (E.3.1.11, POCD p. 37 and Corridor Study p. 10) ; and

**BE IT FURTHER RESOLVED** that notice of this action be forwarded to the Norwalk Zoning Commission.

**Ms. Langalis seconded.**

As the commissioners began their discussion, Mr. Kleppin suggested that it might not be prudent to deny one part of the application and then approve the other. They also discussed that there were many gas stations in the area. There were also concerns about the traffic. There was also a discussion about whether gas stations would even exist in 7 years. Before they voted, Ms. Langalis suggested that a better use for the area would be to restore some of the older homes and preserve the residential character of the zone as could be seen in some other homes nearby.

**David Davidson; Brian Baxendale; Steven Ferguson; Fran DiMeglio; Michael Mushak; George Tsiranides; Nora King; Tamsen Langalis voted in favor.**

**No one opposed.**

**No one abstained.**

**d) Zoning Commission referral: #8-17R – Wall Street Theater Company, Inc – Proposed amendments to Article 121 to revise Signs in Central Business Design District to permit theater marquee signs with digital changeable copy and related technical amendments**

**\*\*\* MR. FERGUSON MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "**#8-17R – Wall Street Theater Company, Inc – Proposed amendments to Article 121 Sign Regulations to revise Signs in Central Business Design District to permit marquee signs with digital changeable copy and related technical amendments**" and dated August 28, 2017 to allow a marquee sign with digital changeable copy (automatic) and a projecting sign on a theater located in CBDD Subarea A, be **APPROVED**;

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

1. To implement the Plan of Conservation & Development to "Continue to review and improve sign regulations" (F.4.1.4, p.43); and

**BE IT FURTHER RESOLVED** that notice of this action be forwarded to the Norwalk Zoning Commission.

During the discussion, Mr. Mushak asked that the city retain control of the brightness of the lights for the changeable copy of the signs for public safety issues. Mr. Wrinn suggested some language for the Zoning Commission to include as a condition in their resolution regarding the brightness of the lights meeting industry standards. Mr. Kleppin said it should be a part of the site plan approval. They also discussed the hours of operation and when the lights should be turned off. There were bars that were connected with the theater so some commissioners thought that the lights should be turned off when those establishments were closed. Some thought that the lights should be shut 1 hr. after the establishment closed.

**Ms. King seconded.  
David Davidson; Brian Baxendale; Steven Ferguson; Fran DiMiglio;  
Michael Mushak; George Tsiranides; Nora King; voted in favor.  
Tamsen Langalis opposed.  
No one abstained.**

At this point, Ms. King said she was not feeling well and left the meeting. She said she would approve the minutes.

**VI. APPROVAL OF MINUTES: Subdivision: May 16, 2017 (verbatim); Land Use: May 16, 2017 (verbatim); Planning: May 16, 2017 (verbatim); Subdivision: July 18, 2017; Land Use: July 18, 2017; Planning: July 18, 2017**

- \*\* MS. DIMEGLIO MOVED to approve the Subdivision minutes of May 16, 2017 (verbatim) with Mr. Davidson's changes.  
Before they were seconded Mr. Davidson read into the record changes which included the incorrect references to commissioners that were speaking on the record. Mr. McLaughlin was referenced when Mr. Davidson had been speaking. He also asked that a 4 page packet that he had handed out at the meeting be included in the transcript.  
Mr. Ferguson seconded.  
David Davidson; Steven Ferguson; Fran DiMiglio; George Tsiranides; Nora King; voted in favor.  
No one opposed.  
Michael Mushak, Tamsen Langalis and Brian Baxendale abstained.**
- \*\* MS. DIMEGLIO MOVED to approve the Land Use minutes of May 16, 2017 (verbatim);  
Mr. Davidson seconded.  
David Davidson; Steven Ferguson; Fran DiMiglio; George Tsiranides; Nora King; voted in favor.  
No one opposed.  
Michael Mushak, Tamsen Langalis and Brian Baxendale abstained.**
- \*\* MS. DIMEGLIO MOVED to approve the Planning Commission minutes of May 16, 2017 (verbatim);  
Mr. Davidson seconded.  
David Davidson; Steven Ferguson; Fran DiMiglio; George Tsiranides; Nora King; voted in favor.  
No one opposed.  
Michael Mushak, Tamsen Langalis and Brian Baxendale abstained.**

- \*\* MS. DIMEGLIO MOVED to approve the Subdivision Committee minutes of July 18, 2017.  
Mr. Baxendale seconded.  
David Davidson; Brian Baxendale; Fran DiMeglio; George Tsiranides; Nora King; Tamsen Langalis voted in favor.  
No one opposed.  
Michael Mushak and Steven Ferguson abstained.**
- \*\* MS. DIMEGLIO MOVED to approve the Land Use Committee minutes of July 18, 2017;  
Mr. Davidson seconded.  
David Davidson; Brian Baxendale; Fran DiMeglio; George Tsiranides; Nora King; Tamsen Langalis voted in favor.  
No one opposed.  
Michael Mushak and Steven Ferguson abstained.**
- \*\* MS. DIMEGLIO MOVED to approve the Planning Commission minutes of July 18, 2017;  
Mr. Davidson seconded.  
David Davidson; Brian Baxendale; Fran DiMeglio; George Tsiranides; Nora King; Tamsen Langalis voted in favor.  
No one opposed.  
Michael Mushak and Steven Ferguson abstained.**

## **VII. APPOINTMENT OF NOMINATING COMMITTEE**

Ms. DiMeglio said that she would not be appointing a nominating committee. She also said that she would call Ms. King and explain what she was proposing. Instead she would nominate herself as chair at the next meeting and would ask for nominations from the floor. She would also accept nominations for Vice Chair and Secretary. Mr. Mushak said that he never understood the nominating process.

## **VIII. COMMENTS OF THE DIRECTOR**

Mr. Kleppin said that he had no other comments besides what he had discussed earlier in the evening. Mr. Wrinn was asked if he had any comments but he did not.

## **IX. COMMENTS OF COMMISSIONERS**

Mr. Ferguson announced that he had recently become engaged but that the wedding date had not been set yet.

Mr. Davidson had questions about the Transit Oriented Development (“TOD”) plan which had passed last August. He wondered if the recommendations had been

passed onto “the powers that be.” He said that he had seen newspaper articles and he wondered where the Zoning Commission stood. Mr. Kleppin explained what was happening with the Redevelopment Agency on the affordable housing regulations. There had been discussions about 20% affordable housing which had not gone well with the developer community. Mr. Davidson noted that the commissioners had supported this because they wanted to confirm that the people that lived there would not be displaced. He wanted the Planning Commission to reaffirm their position. There was then a discussion about the process for this, whether it would go first to the Zoning Commission or vice versa. Mr. Kleppin said that they may see it by the end of the year. Mr. Davidson noted that the South Norwalk neighborhood is concerned and Ms. DiMeggio said that they should come to the public hearings.

Ms. DiMeggio had several comments. First, she asked that if the commissioners had questions they should ask the Planning and Zoning Department staff, they should copy the other commissioners so it was in the record. It should not be an email conversation. She also asked that if commissioners were called at their home, they should refer the person back to the Zoning Department staff. Mr. Kleppin said if an application had been voted on then they could comment. She also noted that since there were several new commissioners, there would be a Freedom of Information Act (“FOIA”) training for everyone. She also said that she would like to set up a joint session of the Planning and Zoning Commissions. She also had questions about new commissions that had been set up, such as the bike task force and the arts commission. She wondered if they would be able to give presentations to the Planning Commission to make sure they were part of the POCD process.

Mr. Davidson then asked for further clarification of the email process that Ms. DiMeggio had earlier discussed. Some of the commissioners had questions about specific examples about how this would work as well as what to do when they were out in public.

## **X. ADJOURNMENT**

**Mr. Ferguson made a Motion to Adjourn**

**Mr. Tsaranides seconded.**

**Frances DiMeggio; David Davidson; Brian Baxendale; Tamsen Langalis; George Tsaranides; Nora King voted in favor.**

**No one opposed.**

**No one abstained.**

The meeting was adjourned at 10:21 p.m.

Respectfully submitted by,

Diana Palmentiero