

**CITY OF NORWALK
PLANNING & ZONING COMMISSION
May 18, 2022**

PRESENT: Louis Schulman, Chair; Richard Roina; Brian Baxendale; Darius Williams; Mike Mushak; Nick Kantor; Galen Wells (arrived after roll call); Jacquen Jordan-Byron (arrived at 8:25 pm)

STAFF: Steve Kleppin; Bryan Baker

OTHERS: Diane Cece; Danny Loftus George; Ben Hanpeter; Atty Liz Suchy; Kelly Bohnenberger

I. CALL TO ORDER

Mr. Schulman called the meeting to order at 6:06 p.m. It should be noted that this meeting was held on Zoom.com with all participants calling in, separately.

II. ROLL CALL

Mr. Kleppin called the roll.

III. PUBLIC HEARINGS

a. #2021-28 R – Planning & Zoning Commission – Proposed amendments to section 118-700 and 118-711 of the Building Zone Regulations to place a temporary moratorium on certain uses and distribution facilities in the Industrial #1 Zone as well as distribution facilities in the Restricted Industrial Zone

Mr. Schulman opened the public hearing by discussing the rules for it.

Mr. Kleppin began the presentation, noting that this was a continuation of a prior action. He explained that there were some uses that had been placed in a moratorium, due to a study. The moratorium has been extended until September 2022 while the study was being approved by the commission as well as the Common Council.

Diane Cece, of the East Norwalk Neighborhood Association, noted that ENNA had asked for a number of other uses to be excluded in the moratorium but realized that this request was late. She also said that ENNA had asked for a moratorium on special permits while the study was being completed. She said that ENNA supported the moratorium through September.

There were no other members of the public that spoke on this matter.

Mr. Baker noted that the application had been referred to other towns and agencies but had received no comments from them.

Mr. Schulman closed the public hearing.

b. Action on III.a. (#2021-28 R)

**** MR. MUSHAK MOVED: BE IT RESOLVED** that the request to extend the existing moratoriums on the following uses in the Industrial #1 Zone: building material and storage yards, contractor's storage yards, distribution facilities, single and two family dwellings and self-storage facilities, as well as the existing moratorium on distribution facilities in the RI Zone, be extended through September, 2022, be **APPROVED;**

BE IT FURTHER RESOLVED that the reasons for this action are to implement the Plan of Conservation and Development:

1) Chapter 3, Goal 2Aiii. Study industrial zoning and update zoning and land use regulations to allow and encourage a wider set of uses in targeted industrial zones, focused on market opportunities in warehouse/logistics, brewing/distilling, artist/artisan uses and other light industrial uses that do not have detrimental externalities on nearby areas; and

2) Chapter 12, Goal 3Aii. Prepare a study to evaluate the industrial zoning districts against modern industrial requirements, market demand, future trends, and economic development goals. Create refined performance standards and update the use table (e.g. allow by-right warehouse and wholesale distribution facilities, boutique manufacturing, clean industry, etc.); and

3) Chapter 12, p. 239. No heavy industry or residential uses. Contractor yards for processing erodible materials should be limited and held to strict performance standards, if permitted.

BE IT FURTHER RESOLVED that the effective date of this action be May 27, 2022.

Mr. Schulman thought this was the appropriate action to take at this time.

Mr. Kantor seconded.

Louis Schulman; Richard Roina; Brian Baxendale; Darius Williams; Mike Mushak; Nick Kantor; Galen Wells approved.

No one opposed.

No one abstained.

c. #2022-17 R – The Norwalk Conservatory of the Arts – Zoning Regulation amendment to Sections 118-100, 118-500 and 118-1220 to add a “dormitory” use to the

East Avenue Village District by Special Permit, “dormitory” definition and parking requirement

Mr. Schulman opened the public hearing. Danny Loftus George introduced himself and explained that the Norwalk Conservatory of the ARTs was a new undergraduate school. Students were coming from all over the country. The school opens in August 2023.

There was a discussion of the type of accreditation. Mr. George explained that there was a state accreditation. They have started this process. The second accreditation will be from New England Commission of Higher Education (NECHE) for a Bachelor’s Degree. They cannot obtain this accreditation until they have 2 calendar years of courses. They will start with an associate but will eventually have a Bachelor’s degree. The first year will have 48 students. There will be 3 different programs in the Fine Arts. There will be 4 semesters of liberal arts which will include 1 semester of science. Students will walk from the dormitory to the school. There will not be any vehicles on campus. The school will be at 69 Wall Street, above Fairfield County Bank. 102 East Avenue will be the dormitory. Currently there is an ophthalmologist in the building. At minimum there will be 36 students and a maximum 52 students. There was a discussion about growth projections. They expect to double the number of students every year. They would look to other buildings in the area for the additional students.

Mr. Baker noted that there is language for universities in the regulations but this regulation would add dormitories. There was a discussion about the parking at 102 East Avenue. Mr. George said that no cars would be allowed on campus including dormitories and said that students would have to park off-site since they could not control that.

There was a discussion about the other universities and how he revitalized their theatrical programs. One example was the University of Connecticut. He said that his company was a private, not for profit.

Diane Cece noted that she had a lengthy presentation and asked others to go before her. Mr. Baker said that there were no other members of the public waiting. She began with a discussion of the process of legal notice which had been done on May 3 but that the staff memo had not been posted until May 13. She explained that due to the zoning regulations, many of the abutting property owners did not know about this public hearing. She noted that there had been a modification suggested by Atty Adam Blank. She asked the commissioners to deny the application or to postpone the vote until more members of the public could be apprised of the application.

Ms. Cece then addressed whether the application complied with the Plan of Conservation and Development (POCD). She noted that it only complied with one chapter of the POCD. She said that she had found some information on the Conservatory’s website that there was a connection to the Palace Theater in Stamford. She discussed their tax status as a non-profit. She also discussed the cost and noted that it would prohibit having students from

diverse, economic backgrounds. She also explained that until the conservatory was accredited students would not be eligible for federal aid.

She then discussed the application and thought that documents on the city's website had been substituted without noting that they had been revised. She had concerns about the ownership of 102 East Avenue. She had concerns about property ownership in South Norwalk. She also had concerns about the number of students at the school. She had questions about the definition of "dormitory" since it would affect the East Avenue Village District. She then noted how this could affect other commercial zones in the city. She also noted that the dorm rooms could have 2-3 students in it. She then discussed the parking and the enforcement of the parking prohibitions. She noted that the students would be from around the country and would likely have cars. She was concerned about family and friends visiting and then they would park on neighborhood residential streets. She asked that language be added to the resolution to not allow parking on campus and that adequate transportation be provided. She believed that this regulation was a slippery slope.

Mr. Schulman allowed Mr. George to respond to Ms. Cece. He addressed her concerns about parking. He noted that family and friends are not allowed in dormitories. He also noted that anyone living in a dorm will be enrolled in the conservatory. He said he was offended by the comment about the types of students that would be enrolled at the conservatory. He noted that they were working with the Norwalk Inn to house some summer students since they did not have dormitories. He explained that his company was not for profit and he did not receive a salary. He also explained students were eligible for different types of scholarships, not just federal grants. He said they were not working with the Palace Theater but would like to be. It is for sale at this time. Everything is in the Wall Street area. There was a discussion about students living elsewhere and that they were not required to live on campus.

Mr. Baker noted that the application was received on April 18 and that his staff memo was posted on May 13, 2022. He said that it was his research, and not the application. He also addressed the process for legal notices and there are no regulations notifying the neighbors. Mr. Kleppin noted that one of the goals of the POCD was to recruit schools to the city specifically to the Wall Street area. He thought this was a "homerun" for the city.

Mr. Schulman said that he would like to see the city's legal notification requirements should be "beefed up" so more people would have known about this application. Mr. Roina thought it was a good idea for a school on Wall Street. He did have concerns about the parking in the area near the dorms. He was concerned about the number of students that could potentially be in the dorms. He thought they needed more input, though. Ms. Wells noted that when her children attended college, they did not have cars. They only had cars when they lived off campus. She thought the parking issue was being overblown. There was a discussion about the distance from the dorms to the campus. Mr. George said that the students would be dancers, etc. so walking should not be a problem. Mr. Mushak said that he thought this was a good project, especially to help the local economy including having some of these students

remain in Norwalk after they graduated. He referred to the city of Stamford which has a campus for the University of Connecticut. Mr. Baxendale said he was in support of the school but said that they needed to tighten up some of the terms in the regulation. He also agreed with Mr. Schulman that the residents should be made aware of the application. Ms. Wells said that they should also work on changing the notification rules but that they had been followed on this application. Mr. Kleppin said that some changes had been made to notifications in the zoning regulation re-write. There was a discussion about the formula for the parking for the dormitories. Mr. Baker said that he reviewed all towns in Connecticut that have universities. There was a discussion about whether city permits were necessary for this space.

Ben Hanpeter, 262 East Avenue, said that he was a recent college graduate in 2020. He noted that the distance between the dorm and campus was fine and that students would not need a car. He would support the application.

Mr. Baker noted that the application was referred to DEEP and Harbor Management. He read the referrals into the record.

d. Action on III.c. (#2022-17 R)

**Whereas the Norwalk Planning & Zoning Commission held a public hearing on this application on March 18, 2022;*

**Whereas the Norwalk Planning & Zoning Commission has received a finding of consistency with the Harbor Management Plan from the Norwalk Harbor Management Commission;*

**Whereas the Norwalk Planning & Zoning Commission has received a finding of consistency with the Coastal Area Management Act from the Connecticut Department of Energy and Environmental Protection;*

**Whereas the Norwalk Planning & Zoning Commission has found that the proposed text amendment is consistent with the Norwalk Plan of Conservation and Development;*

**** MR. MUSHAK MOVED: THEREFORE BE IT RESOLVED** by the Norwalk Planning & Zoning Commission that application #2022-17 R – The Norwalk Conservatory of the Arts – Zoning Regulation amendment to Sections 118-100, 118-500 and 118-1220 to add a “dormitory” use to the East Avenue Village District by Special Permit, “dormitory” definition and parking requirement be **APPROVED**.

BE IT FURTHER RESOLVED that the approved language is the following:

Article 10, Definitions, Section 118-100. Definitions.

a. Dormitory: a Building or Buildings containing a number of private or semiprivate sleeping quarters to be occupied by students enrolled at the college or university with shared facilities

such as bathrooms and living rooms; owned, controlled and/or managed by an educational institution that is located within the City of Norwalk. Separate cooking facilities are not provided for each of the sleeping quarters, but common eating facilities and related cooking facilities may be located in the Building.

2. Article 50, Use Regulations Controlling Business Zones, Section 118-500. East Avenue Village District.

(c) Public and private colleges and universities, including dormitories.

3. Article 120, Off-Street Parking and Loading Regulations, Section 118-1220. Amount of motor vehicle parking space to be provided.

(3)(a) Multi-Family Residence	1) 1.3 parking spaces per dwelling unit; 2) for mixed use developments, the greater of 1.3 parking spaces per residential unit or the aggregate, after applying any applicable mixed-use reductions listed in § 118-1220E, of the total required parking spaces for commercial uses and residential units parked at 1 space per unit
(b) Residence (other) (1) Planned residential development (2) Planned residential development, elderly (3) Congregate housing (4) Commercial planned residential development	2 parking spaces per dwelling unit 1 parking space per 2 dwelling units 1 parking space per 4 dwelling units 1.5 parking spaces per studio or 1-bedroom dwelling unit; 2.0 parking spaces per 2-bedroom or larger dwelling unit (A dwelling unit with 4 or more rooms shall count as 2 bedrooms)
(5) Housing for the elderly (6) Artist Live/Work Space (7) Dormitories	1 parking space per unit 0.5 parking spaces per unit 0.5 parking spaces per dorm room

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

1. To achieve the Plan of Conservation and Development goal for Norwalk to, “Continue to strengthen Norwalk’s urban core with a mix of uses to attract residents, visitors and businesses” (Chapter 3: Prosperity & Opportunity); and

2. To enact the Plan of Conservation and Development policy for Norwalk to, “Pursue a college or university center to locate downtown” (Chapter 3: Prosperity & Opportunity); and

3. To achieve the Plan of Conservation and Development action for Norwalk to, “Attract a higher education presence in Norwalk Center” (Chapter 3: Prosperity & Opportunity);

a. That the Plan of Conservation and Development specifies that Business or arts departments or special centers are often particularly successful in bringing more vitality to downtown.

BE IT FURTHER RESOLVED that the effective date of this action is May 27, 2022.

Ms. Wells seconded.

There was a discussion about some of the modifications. It was noted that this text amendment was for the East Avenue Village District. Mr. Schulman said they should require bike racks to accommodate the students in the dorms. Mr. George thought that would be acceptable. There was then a discussion about the definition of “educational institution.” There was a discussion about the accreditation process which Mr. George said could take approximately a year. There was a discussion about approving the text amendment first and then approving the zoning application for the dormitory.

Louis Schulman; Brian Baxendale; Darius Williams; Mike Mushak; Nick Kantor; Galen Wells approved.

No one opposed.

Richard Roina abstained.

Mr. Schulman suggested to Mr. George that he should work with the Norwalk Transit District to help students get around the city.

IV. EXTENSION OF TIME REQUESTS ON APPROVED APPLICATION

a. #2021-10 SP – Norwalk Housing Ventures II, LLC – 1 Elmcrest Terrace – Proposed Historic preservation development to rehabilitate existing historic buildings and construct a six-unit residential addition

Mr. Schulman introduced Atty Liz Suchy who represented the Norwalk Housing Ventures II, LLC. She said that they had received an approval last year but that they were requesting an extension of the approval. She further explained where the applicant was in the construction process. She noted that construction should take 8-12 months. She explained the reasons for the extension.

b. Action on IV.a (2021-10 SP)

Mr. Baxendale made a motion to approve the extension of time. Ms. Wells seconded the motion and all voted in favor of it.

V. REVIEW AND ACTION ON APPLICATIONS

a. #2022-18 SPR – McDonald’s Real Estate Company – 730 Connecticut Avenue – Modification to SPR for existing McDonalds Drive-Thru – Report & recommended action

Kelly Bohnenberger, a representative of the McDonald’s Real Estate Company, began the presentation by orienting the commissioners as to the location of the property on an aerial map. She explained the proposal as well as a site plan. She showed them the flow of traffic with the menu boxes and the lanes. She noted that some parking spaces would have to be removed but they would still have the required number of parking spaces. There would not be any changes to the exterior of the building. There was a discussion about other side by side drive throughs in the area. There was also a discussion about deliveries to the restaurant. Ms. Bohneneberge said that a traffic study had been submitted. She said that they had received some comments from the city which they would address. Mr. Kleppin said that staff encourages these types of applications to remove vehicles from the road. Mr. Baker said that there would be comments from DPW but they would be incorporated during the construction phase.

**** MR. MUSHAK MOVED: THEREFORE BE IT RESOLVED** that application #2022-18 SPR – 730 Connecticut Avenue –Modification to SPR for existing McDonalds Drive-Thru be **APPROVED** subject to the following conditions:

1. That the site shall be developed in accordance with the following plans:
 - a. Per Site Plan entitled “Site Layout Plan” sheet no. C-24 dated 2/16/2022 prepared by BOHLER Engineering and Surveying; and
2. That all applicable department sign-offs are submitted prior to issuance of any Zoning Permit; and
3. That all erosion and sediment controls be installed and maintained prior to the start of any construction or site work and that additional controls be installed at the direction of the Commission’s Staff, as needed; and
4. That a building permit must be issued within one (1) year from the effective date or this modification approval shall become null and void, unless an extension of time is applied for and granted by the Commission; and

5. That should traffic queuing onto the site exceed the queuing capacity available as identified by City Staff, that a follow up traffic study be submitted to the Zoning Commission detailing solutions to the traffic problem for their review and approval; and
6. That any and all conditions required by Norwalk DPW shall be applicable to this approval; and
7. That any and all conditions required by Norwalk TMP shall be applicable to this approval; and
8. That any revisions to the approved plans shall be submitted to City Staff to determine if the revisions are minor in nature; if any revisions are determined to be major changes, such changes must be submitted to the Planning & Zoning Commission for their review and approval prior to implementation; and
9. That this approval is subject to Section 118-1460 C. of the Norwalk Building Zone Regulations; and

BE IT FURTHER RESOLVED that this proposal complies with Section 118-1451 and all other applicable sections of the Norwalk Building Zone Regulations; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be May 27th, 2022.

Mr. Williams seconded.

Louis Schulman; Richard Roina; Brian Baxendale; Darius Williams; Mike Mushak; Nick Kantor; Galen Wells approved.

No one opposed.

No one abstained.

b. #1-05 SPR – FF Realty, LLC (Pepperidge Farms) – 595 Westport Avenue – Request for bond release – Report & recommended action

Mr. Baker noted that Planning and Zoning staff recommended that the bond should be released since all work had been completed. The bond had not been released in 13 years since the project had been completed.

**** MR. WILLIAMS MOVED: THEREFORE BE IT RESOLVED** by the Norwalk Planning & Zoning Commission that the bond release request for application #1-05 SPR – FF Realty, LLC (Pepperidge Farms) – 595 Westport Avenue – Request for release of bond be **APPROVED**.

BE IT FURTHER RESOLVED that the effective date of this action is May 27, 2022.

Mr. Roina seconded.

Louis Schulman; Richard Roina; Brian Baxendale; Darius Williams; Mike Mushak; Nick Kantor; Galen Wells approved.

No one opposed.

No one abstained.

VI. DISCUSSION ITEMS

a. Continued discussion of the zoning regulation re-write, single-family zoning, accessory dwelling units and parking

Mr. Kleppin began the presentation with a recap of the zoning rewrite of the single-family zoning. He then showed them the draft schedule of the proposed zones. There was a discussion about how a B zone can go to an A or Double A zone. There was also a discussion about the fact that there would be more housing and potentially more parking spaces that would be required. There was also a discussion about how many properties could convert to 2 family housing.

There was also a discussion about putting in Accessory Dwelling Units (ADUs) in this area. Mr. Baker discussed a memo that he had prepared for the commissioners. Mr. Baker noted that the city would opt out of the state's regulations for ADUs and adopt their own. He then described the proposed revised regulations. There was a discussion about freestanding units. Mr. Roina said there should be some review by the Planning & Zoning Commission which would include parking and architecture. Ms. Jordan-Byron asked for further clarification on off-street parking spaces.

It was suggested that there could be some language of how the freestanding unit should look. Mr. Kleppin said the new regulations could address the style of architecture.

There was a discussion that the city has to affirmatively opt out of the state regulations and adopt their own regulations. The Planning & Zoning Commission had to hold a public hearing to opt out of the state regulations and then it would move to the Common Council.

There was then a further discussion about parking spaces for the ADUs. If 2 spaces were required this would be an expense for the homeowner. There was also a discussion as to whether these units would be middle income housing. There was a discussion about what changes the city would consider making to the state's regulations. Mr. Kleppin noted that there should be a public discussion which would happen if the city opts out of the regulations through the public hearing. Some of the commissioners then explained whether they would vote for opting out. There was a discussion about the amount of parking spaces since some properties may not have enough before adding an ADU.

VII. APPROVAL OF MINUTES: April 7, 2022; April 20, 2022; May 12, 2022

**** MS. JORDAN-BYRON MOVED to approve the April 7, 2022 meeting minutes.**

Ms. Wells seconded.

Louis Schulman; Richard Roina; Brian Baxendale; Mike Mushak; Nick Kantor; Galen Wells; Jacquen Jordan-Byron approved.

No one opposed.

Darius Williams and Brian Baxendale abstained.

**** MR. ROINA MOVED to approve the April 20, 2022 meeting minutes.**

Mr. Williams seconded.

Louis Schulman; Richard Roina; Brian Baxendale; Mike Mushak; Galen Wells; Jacquen Jordan-Byron; Darius Williams and Brian Baxendale approved.

No one opposed.

Nick Kantor abstained.

**** MR. WILLIAMS MOVED to approve the May 12, 2022 meeting minutes.**

Mr. Roina seconded.

Louis Schulman; Richard Roina; Brian Baxendale; Mike Mushak; Galen Wells; Jacquen Jordan-Byron; Darius Williams; Nick Kantor and Brian Baxendale approved.

No one opposed.

No one abstained.

VIII. COMMENTS OF DIRECTOR

Mr. Kleppin said that the next meeting was on June 2 at which there would be a public hearing for North 7 as well as other applications on the agenda. There was a discussion about the public hearing to opt out of the state's regulations with the ADUs. Mr. Kleppin said that it must be done before the state regulations take effect on January 1, 2023. He suggested the process of opting out as well as the zoning regulations rewrite.

IX. COMMENTS OF COMMISSIONERS

Mr. Mushak thanked Diana Palmentiero for taking great minutes.

There was also a discussion about when the commissioners would see a draft of the new zoning regulations. Mr. Kleppin said he hoped to have a draft to the commissioners in June which they could review during the summer. He also hoped to have a public hearing meeting in September. He also suggested having public meetings with different neighborhood groups.

Mr. Schulman said that Steve Ferguson is still in pain from a car accident in the previous week. He also noted that Ms. Langalis was on a surprise trip for her 30th wedding anniversary. Mr. Pachas was not able to join the meeting tonight due to family illnesses.

X. ADJOURNMENT

Mr. Mushak made a Motion to Adjourn.

Mr. Williams seconded.

Louis Schulman; Richard Roina; Brian Baxendale; Darius Williams; Mike Mushak;

Nick Kantor; Galen Wells; Jacquen Jordan-Byron approved.

No one opposed.

No one abstained.

The meeting was adjourned at 8:59 p.m.

Respectfully submitted,

Diana Palmentiero