

Rye City Planning Commission Minutes

September 8, 2020

Meeting held virtually via Zoom Video Conferencing due to COVID-19

MEETING ATTENDANCE:

Planning Commission Members:

- Nick Everett, Chair
- Martha Monserrate, Vice-Chair
- Andrew Ball
- Laura Brett
- Richard Mecca
- Rick Schaupp
- Steven Secon

Other:

- Christian K. Miller, AICP, City Planner
- Tracy Stora, CC/AC Chairperson
- Melissa Johannessen, AICP, LEED AP
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I. HEARINGS

1. Kudor Island Colony, Inc. Pilot Mosquito Control Program (Item taken out of order)

- Mr. Michael Klein, applicant's wetland scientist; and Mr. David Spader of the Board of Directors of the Kudor Island Colony, the applicant, were present for the application. Mr. Klein stated that in July 2019 the applicant began researching control measures for adult mosquitos and consulted with Westchester County and local pesticide applicators. He noted that the applicant prefers to use an Integrated Pest Management (IPM) approach to mosquito control, which involves a series of steps. He noted that the larval-stage control implemented thus far has not been enough to control the population, so the next step in the IPM is adult mosquito control.
- Mr. Klein stated that the applicant is seeking to use a spray-applied pesticide that the EPA classifies as a minimal risk pesticide. He noted that the applicant met with the CC/AC in an informational session, and per the Planning Commission requirements, notified abutters about the public hearing.
- The Commission asked Mr. Klein to describe the product, the process for applying it, and the locations where it will be applied. Mr. Klein stated that cedarwood oil is the active ingredient in the product, which is organic and is exempt from federal regulations. He stated that it will not be applied in wetland areas, but will be applied to lawns and landscaped areas. He stated that it will be applied every two to three weeks at first, and then less frequently. He stated that the applicant hopes to do one to two applications this year and then implement a full-scale application next year.
- The Commission asked for clarification as to whether areas of "little Hen Island" will be included in the application. Mr. Spader said that the North, South, and Middle parts of Hen Island are all areas where cottages are located, and will be included in the program. Mr. Spader noted that they have not polled all the

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1 shareholders yet to see if anyone has objections to the spraying plan, but the vast
2 majority have indicated that they would like mosquito control.

- 3
- 4 • Mr. Dutch Schulz, General Manager of the American Yacht Club – Mr. Schulz
5 asked whether as a result of the treatment there could be the potential for the
6 mosquito population to move from Hen Island to other areas. Mr. Spader stated
7 that the mosquitos are found everywhere and he would not expect them to relocate
8 off the island.
- 9
- 10 • The City Planner noted to the Commission that this application is not the typical
11 wetland permit application, so the typical wetland permit resolution is not
12 necessarily appropriate for this application. The Commission noted that it is most
13 important to capture the description of the process and the product to be used, as
14 had been discussed at the Commission meetings and presented by the applicant.
- 15
- 16 • The City Planner asked the Commission when they would like the approval to
17 expire, as he noted that the typical one-year time frame would not be sufficient for
18 the applicant to fully implement the mosquito control program. He suggested a
19 date of December 31, 2021, to which the Commission agreed.
- 20

21 **ACTION:** Andrew Ball made a motion, seconded by Laura Brett, to close the public
22 hearing and approve Wetland Permit Application Number WP#477, which
23 was carried by the following vote:

24		
25	Nick Everett, Chair:	Aye
26	Martha Monserrate, Vice-Chair:	Aye
27	Andrew Ball:	Aye
28	Laura Brett:	Aye
29	Richard Mecca:	Aye
30	Rick Schaupp	Aye
31	Steven Secon	Aye
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34 **2. 48 Brookdale Place**

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- 36 • Mr. Daniel Demasi, applicant, was present for the application. Mr. Demasi stated
37 that the application is the same as that submitted in March 2018, which involves
38 demolition of the existing home and construction of a new, larger home. He stated
39 that there will be an increase of approximately 447 sf of impervious area in the
40 wetland buffer. The City Planner confirmed that the plans did not change from the
41 2018 application.
- 42
- 43 • The Commission noted that a neighbor submitted an emailed comment in
44 opposition to the project. The Commission noted that the proposed increase in
45 impervious area is de minimus. The Commission discussed whether the driveway

1 **II. ITEMS PENDING ACTION**

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3 **3. 720 Milton Road**

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5 • No one was present for this application. It will be carried forward to the next
6 Planning Commission meeting on September 22, 2020.
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9 **4. Shenorock Shore Club**

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11 • Ms. Jennifer Gray, applicant's attorney; Ms. Azure Dee Sleicher, applicant's
12 engineer; and Mr. Michael Brooks and Mr. Richard LaCoursiere of the Shenorock
13 Shore Club, were present for the application. Ms. Gray gave an overview of the
14 project and its history before the Planning Commission. She noted that the
15 application was last before the Commission in February 2020, after which the
16 applicant agreed to pause the application in light of the coronavirus until meetings
17 were again able to be held in person. She stated that as it has been seven months,
18 the applicant consulted with the City Planner and they agreed to resume meetings
19 even though they were still virtual.
20

- 21 • Ms. Gray noted that three nights of public hearings were held (October 2019,
22 January 2020, and February 2020), and three overall areas of concern were
23 raised: lighting impacts of the docks, the size of the project, and noise.
24

- 25 • Ms. Gray stated that on March 17, the applicant submitted a response to the
26 Commission addressing those three issues. She stated that a photometric plan
27 illustrating the lighting impact was prepared by FP Clarke, which shows that there
28 will be very little light from the pedestal lights extending beyond the docks. She
29 noted that the proposed lights are the same as those currently on the docks.
30

- 31 • Regarding the noise, she stated that the Club is subject to the City's noise
32 ordinance. She noted that she is not aware of any noise complaints against the
33 Club. She also noted that the Club has its own bylaws which state that boisterous
34 noise is not allowed. She noted that the penalty for violations of the noise policy is
35 expulsion from the Club.
36

- 37 • Ms. Gray stated that in February, the Commission asked the applicant to see if the
38 plan could be reduced any further, so a revised plan was submitted in March. She
39 noted that the applicant acknowledges the Commission's frustration that no
40 agreement has been reached between the applicant and the neighbors with
41 respect to the reduced scope of the plan. Ms. Gray stated that the applicant met
42 with the neighbors on at least two occasions and agreed to reduce the lighting
43 intensity, turn off lights during the non-boating season, and reduce the scope of
44 the plan by approximately 50% since the first presentation to the Commission. She
45 stated that it is not possible to reduce the size of the project any further.

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- Ms. Sleicher described the reductions in the plan in more detail for the Commission. She noted that the number of boat slips was reduced from 18 to 14 (22% reduction) and the size of the docks were reduced by 22% overall. She also noted that the length of the main dock has been reduced from 111' to 60'. She also noted that the number of timber piles has been reduced, as has the number of light pedestals. She noted that any further reductions would result in diminishing returns on the capital investment.
 - The Commission noted that there may be an error on the lighting plan. Ms. Gray stated that FP Clarke will review it and make any necessary corrections.
 - The Commission thanked the applicant for agreeing to hold the application. The Commission noted that the public hearing has been closed and now the Commission needs to evaluate the plan's consistency with the LWRP and City wetlands regulations. The City Planner noted that the applicant submitted its LWRP consistency analysis and the Commission needs to review it. Ms. Gray noted that the February 5th submission includes a letter responding to the applicable LWRP policies and wetlands standards.
 - The City Planner noted that all of the previous materials will be provided again for the Commission's review. The Commission also noted that it received a PowerPoint presentation from Mr. Gibb Kane just prior to the meeting, which should be shared with the applicant. Ms. Gray asked what the Commission's policy is for considering public comment after the public hearing has closed. The City Planner stated that it is made part of the record and the Commission can consider it in its decision making.
 - The Commission asked the applicant to return at the September 22nd meeting.

5. 10 Bird Lane (Item taken out of order)

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- Mr. Rex Gedney, architect was present for the application. Mr. Gedney stated that the application involves construction of two 18"-high, hand-set retaining walls that will connect to existing walls to level a portion of the lot, with a planting bed between the walls. Mr. Gedney noted that the existing patio will be raised by 15" to work with the grade change. He noted that the area of the new walls will be 105 sf. Mr. Gedney confirmed that the walls will be dry-laid so that water will flow through them.
 - The Commission asked for the quantity of fill that will be needed to level the grade. Mr. Gedney stated that he will provide that information to the Commission.
 - The Commission scheduled a site walk for Saturday, September 12.

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6. 14 Hannan Place

- Mr. Paul Fusco, landscape architect, was present for the application. Mr. Fusco stated that the application involves adding a portable spa onto an existing patio, which was recently discovered not to have a wetland permit or building permit. He also noted that the existing deck is being expanded by 120 sf, so the application includes both the deck expansion and legalizing the patio.
- The Commission noted that the site is adjacent to both NYSDEC wetlands and City of Rye wetlands. Mr. Fusco stated that all work is outside of the 50-foot NYSDEC wetland buffer, but is within the 100-foot Rye wetland buffer.
- Mr. Fusco stated that wetland mitigation is proposed at a 2:1 ratio for the existing patio and the proposed deck expansion, and will be planted in place of existing lawn. He noted that the deck expansion involves approximately 12-15 sf of disturbance for installation of a few posts.
- The Commission asked whether there was any equipment associated with the spa. Mr. Fusco stated that the spa is self-contained, so all equipment is within the structure. He noted that it is a swim spa, similar to a lap pool, and is electrically powered.
- The Commission asked why the deck expansion was necessary. Mr. Fusco explained that the deck is 6' above the elevation of the patio, so an addition was necessary to provide access to the spa. He showed photos of the existing conditions of the site and noted that the spa will be placed on an existing mulched area. The Commission asked whether footings were needed for the spa. Mr. Fusco replied that the specifications for the spa require a compacted gravel pad.
- The Commission scheduled a site walk for Saturday, September 12.

7. 42 Purchase Street

- Mr. Leo Napior, attorney, and Mr. David Mooney, architect, were present for the application. Mr. Napior stated that the application involves the former TD Bank site in the B-2 Central Business District zoning district. He noted that the application is similar to the 12 Purdy Avenue application recently approved by the Commission, in that it is a mixed-use building with retail on the ground floor and eight residential units on the upper two floors. Mr. Napior stated that the project will use the existing foundation and structural steel for the first and second stories, and a third story will be constructed above. He noted that the parking credit exceeds the required parking for the proposed use, and the building complies with height and setback requirements but needs an FAR variance.

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- 2 • The Commission asked how many parking spaces are on the site. Mr. Mooney
- 3 stated that there are no onsite parking spaces; the available parking is on City
- 4 property. He noted that there is a parking credit of 5.8 spaces.
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- 6 • The Commission asked the applicant to prepare a scale analysis comparing the
- 7 proposed building to others in the CBD that exceed the FAR. Mr. Mooney noted
- 8 that there are five buildings nearby. The Commission asked Mr. Mooney to prepare
- 9 a diagram to map it out and submit it to the Commission prior to the next meeting.
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- 11 • The Commission asked Mr. Mooney to explain how trash will be handled. Mr.
- 12 Mooney stated that there is an enclosed trash room on each floor with room for
- 13 trash to be stored until it can be brought outside. Mr. Mooney stated that no food
- 14 service is currently planned. The City Planner stated that the Commission's
- 15 practice has been to include a condition in the resolution that if food service is
- 16 proposed, the application has to return to the Commission for further evaluation.
- 17
- 18 • The Commission also asked Mr. Mooney to indicate on the plans how many
- 19 containers the trash rooms can accommodate to show that they are adequately
- 20 sized for the use.
- 21

22 **ACTION:** Laura Brett made a motion, seconded by Richard Mecca, to set the public
23 hearing for Site Plan Application Number SP#384 which was carried by the
24 following vote:

25		
26	Nick Everett, Chair:	Aye
27	Martha Monserrate, Vice-Chair:	Aye
28	Andrew Ball:	Aye
29	Laura Brett:	Aye
30	Richard Mecca:	Aye
31	Rick Schaupp	Aye
32	Steven Secon	Aye
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35 **8. 460 Grace Church Street**

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- 37 • Mr. Alan Pilch, applicant's engineer, was present for the application. The
- 38 Commission noted that updated plans were submitted per the Commission's
- 39 request, showing the existing and proposed calculations of impervious area in the
- 40 wetland buffer.
- 41
- 42 • The Commission noted that no mitigation plan had been submitted. Mr. Pilch
- 43 stated that one will be provided. He stated that he anticipates wetland plantings at
- 44 a 2:1 ratio at the rear of the property where there is existing lawn.
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- 1 • Mr. Pilch confirmed for the Commission that no vehicles will access the site below
2 the wall except to install the Cultec units. He also confirmed that the mechanical
3 equipment for the pool is under an area of the building near the pool.
4
- 5 • The Commission asked Mr. Pilch to return with the mitigation plan at the next
6 meeting.

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9 **9. Minutes**

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- 11 • The Commission reviewed the draft minutes from the August 11, 2020 meeting
12 and made minor revisions.

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14 **ACTION:** Martha Monserrate made a motion, seconded by Richard Mecca, to
15 approve as amended the minutes from the August 11th meeting, which was
16 carried by the following vote:

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18 Nick Everett, Chair:	Aye
19 Martha Monserrate, Vice-Chair:	Aye
20 Andrew Ball:	Aye
21 Laura Brett:	Aye
22 Richard Mecca:	Aye
23 Rick Schaupp	Aye
24 Steven Secon	Aye

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27 **10. Planning Department Updates**

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- 29 • None.