

**Rye City Planning Commission Minutes
February 15, 2011**

MEETING ATTENDANCE:

Planning Commission Members:

- Nick Everett, Chair
- Martha Monserrate, Vice-Chair
- Carolyn Cunningham
- Barbara Cummings
- Hugh Greechan
- Peter Jovanovich
- Peter Larr

Other:

- Christian K. Miller, AICP, City Planner
 - JoAnn Rispoli, Secretary
 - Lori DeCaro, CC/AC Chair
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I. HEARINGS

1. Wainwright House (continued)

Note: The proceedings of this public hearing were recorded and are available digitally upon request. The following is a summary of those proceedings.

- Cliff Davis (applicant's attorney) stated that he submitted a sound report from qualified sound engineers regarding the noise attenuation measures that Wainwright will implement for future tented events. He stated that some of the measures cited in the report have already been implemented by Wainwright. The Commission questioned whether the professionals that prepared the report were affiliated with the company that sold Wainwright the sound system or other equipment. The applicant confirmed that they are not affiliated.
- Mr. Davis stated that the applicant is looking to preserve the 26 booked weddings and 8 non-wedding events scheduled for the tent in 2011. He stated that over a five year period Wainwright would seek to reduce the number of tented weddings to 15 and preserve the 8 non-tented wedding events.
- Mr. Davis stated that he has a letter from monks that have conducted retreats at Wainwright House. Carol Craig (Wainwright Board President) provided detail on the monks program and background. Mr. Davis reviewed other non-wedding tented events to be held in the future including mediation and spiritual sessions. Letters from those involved with sessions at Wainwright were presented by Mr. Davis and are included as part of the official record.
- Mr. Davis confirmed that the flood lights on the building that were discussed at previous hearings have been turned off. The Commission questioned whether they were turned-off or disconnected. The applicant confirmed that the lights will be turned-off and disconnected.
- Mr. Davis requested that the public hearing be closed.

Rye City Planning Commission Minutes (Cont.)

February 15, 2011

Page 2 of 8

- 1
- 2 • The Commission noted the applicant's 2/7/11 letter to the Commission and reviewed
- 3 the number of events proposed for 2011 and future years. Mr. Davis stated that the
- 4 number of events provided in the letter to the Commission will allow Wainwright to
- 5 remain economically viable. The Commission discussed restrictions on what date
- 6 the tents can be installed and what date they are required to be removed. Mr. Davis
- 7 stated that the tents could be restricted to not be installed before May 1 and be
- 8 removed by the end of September. The applicant stated that it is Wainwright's
- 9 desire to reduce the number of events to less than 15 by 2014, but that they need
- 10 some flexibility.
- 11
- 12 • John Carey (860 Forest Avenue resident) summarized his February 11, 2011 email
- 13 to the Planning Commission sent care of the City Planner regarding excerpts of
- 14 documents he found in the Rye City Building Department's file on Wainwright House.
- 15 The Commission stated that it had not received the email in its packet circulated
- 16 prior to the meeting. Mr. Carey's email is included in the official record. The
- 17 Commission stated that it does not have jurisdiction over Building Department or
- 18 City Tax Assessor activities.
- 19
- 20 • Ben Rosenstadt (220 Stuyvesant Avenue resident) cited the sections of the City
- 21 Code the Planning Commission is responsible its review of the application. He
- 22 noted that nowhere in the Code is the Commission asked to consider the financial
- 23 considerations of the applicant. He stated his opinion that Wainwright is operating a
- 24 wedding hall as a commercial enterprise in a residential zone. He noted
- 25 advertisements by the catering company offering catering services at Wainwright for
- 26 weddings. He stated that Wainwright advertises its facility as a wedding destination
- 27 with a capacity of up to 240 people. He stated that Wainwright has altered its facility
- 28 to support the wedding business including the installation of floodlights on the
- 29 building and paving its front driveway. He stated that the quality of life of area
- 30 neighbors has been adversely impacted by Wainwright's activities and should be
- 31 considered by the Planning Commission in its decision. He stated that Wainwright's
- 32 tents are not consistent with the second criteria of Section 197-10 of the City Code.
- 33 Mr. Rosenstadt questioned whether impacts have been considered under SEQR.
- 34
- 35 • Mr. Davis responded to Mr. Rosenstadt noting that the applicant has submitted to
- 36 the Commission a traffic report prepared by a traffic engineer and two reports
- 37 prepared by experts regarding sound impacts and mitigation measures. He stated
- 38 that Wainwright has tried to reach out to the neighbors. Mr. Davis stated that the
- 39 Planning Commission will implement restrictions on the number of weddings at
- 40 Wainwright.
- 41
- 42 • Mr. Carey responded that the planning process is not about compromise. The law is
- 43 the law and it must be enforced. Wainwright's activities are not permitted.
- 44

Rye City Planning Commission Minutes (Cont.)

February 15, 2011

Page 3 of 8

- 1 • Mr. Rosenstadt stated that he has never been approached by Wainwright to address
2 his concerns.
3
4 • Tim Dowling (85 Fairway Avenue resident) stated that he represented the Milton
5 Point Association. He requested that if the Commission approves the application it
6 should limit the tented season to two months and that music should be turned off by
7 7:00 PM.
8

9 **ACTION:** Peter Larr made a motion, seconded by Barbara Cummings that the
10 Planning Commission closed the public hearing on wetland permit
11 application number WP280 and modified final site plan and use permitted
12 subject to additional standards and requirements application number
13 SP317, which was carried by the following vote:
14

15	Nick Everett, Chair:	Aye
16	Martha Monserrate, Vice- Chair:	Aye
17	Carolyn Cunningham:	Aye
18	Barbara Cummings:	Aye
19	Hugh Greechan:	Aye
20	Peter Jovanovich	Aye
21	Peter Larr:	Aye
22		

23 **2. 8 Island Drive**
24

- 25 • Bryan Smith (applicant's engineer) stated that the application involved the
26 modification of a residential driveway, a portion of which is located in a regulated
27 wetland buffer. He stated that the plan was revised as requested by the Planning
28 Commission to eliminate the previously proposed second curb-cut. The revised plan
29 results in a 720 square foot reduction in impervious area. He stated that there would
30 be no increase in stormwater runoff and that the plan would result in a better
31 condition than exists today.
32
33 • There was no public comment.
34
35

36 **ACTION:** Martha Monserrate made a motion, seconded by Carolyn Cunningham
37 that the Planning Commission close the public hearing on wetland
38 application number WP299, which was carried by the following vote:
39

40	Nick Everett, Chair:	Aye
41	Martha Monserrate, Vice- Chair:	Aye
42	Carolyn Cunningham:	Aye
43	Barbara Cummings:	Aye
44	Hugh Greechan:	Aye
45	Peter Jovanovich	Aye

Rye City Planning Commission Minutes (Cont.)

February 15, 2011

Page 4 of 8

1 Peter Larr: Aye

2

3 **II. ITEMS PENDING ACTION**

4

5 **1. Wainwright House**

6

7 • The Commission discussed possible restrictions on tented events for Wainwright
8 and whether it would be appropriate or practical to have the applicant return to the
9 Commission after a year or two events for additional approval. At that point, the
10 Commission should consider adjustments to the previous conditions based on public
11 response to the measures implemented to mitigation noise, traffic and other
12 concerns. The Commission noted that the rules of review would need to be
13 specified and that it might be difficult to manage a future review process.

14

15 • The Commission agreed that it would allow 26 wedding events in 2011 citing the
16 applicant's contractual commitments.

17

18 • The Commission discussed the measures proposed or implemented by the applicant
19 to mitigate the impact of amplified music. The Commission agreed that it would be
20 difficult for the City to enforce conditions regarding how plexi-glass structures are
21 installed, use of certain sound or speaker systems or similar conditions.

22

23 • The Commission noted it appears that Wainwright has not been a good neighbor
24 and that it would be in their best interests to address neighbor concerns. Ann
25 Gaillard (current/former Co-President of Wainwright House board) asserted that
26 Wainwright has set up quarterly meetings with Milton Point Association to better
27 respond to neighbors' concerns. She stated that Wainwright wants to be a good
28 neighbor.

29

30 • The Commission stated that it would request the City Planner to prepare a resolution
31 of for its consideration at its next meeting.

32

33

34 **2. 8 Island Drive**

35

36 • The Commission questioned the size of the turn-around in front of residence and the
37 ability of vehicles to access the garage on the side of the residence. Bryan Smith
38 (applicant's engineer) stated that the turn-around meets the needs of the applicant to
39 allow for parking in front of the residence and vehicle maneuverability. Mr. Smith
40 noted that the turn-around is located outside the 100-foot wetland buffer regulated
41 by the Planning Commission. Mr. Smith added that the applicant is comfortable with
42 the revised plan and believes that they can access the garage with their vehicles.
43 He stated that the proposed driveway configuration has been laid out and that
44 applicant has successfully accessed the garage.

45

Rye City Planning Commission Minutes (Cont.)

February 15, 2011

Page 5 of 8

- 1 • The Commission stated that it believes that driveway access to the garage would be
2 inconvenient and was concerned that the applicant would return to the Commission
3 at a future date seeking the installation of the originally proposed second curb-cut.
4
- 5 • Adam Tuckman (applicant and property owner) stated that he revised the application
6 based on the Planning Commission's comments. He stated that the application was
7 reasonable and decreases the amount of impervious area in the wetland buffer. He
8 stated that he is comfortable with the plan and being able to access the garage. He
9 requested that the Commission approve his revised plan.
10
- 11 • The Commission agreed that the revised application was acceptable and that if a
12 future curb-cut was requested a wetland permit and Planning Commission approval
13 would be required.
14

15 **ACTION:** Nick Everett made a motion, seconded by Peter Jovanovich that the
16 Planning Commission approve wetland permit application number WP299,
17 which was carried by the following vote:
18

19	Nick Everett, Chair:	Aye
20	Martha Monserrate, Vice- Chair:	Aye
21	Carolyn Cunningham:	Aye
22	Barbara Cummings	Aye
23	Hugh Greechan:	Aye
24	Peter Jovanovich	Aye
25	Peter Larr:	Aye

26

27 **3. 464 Forest Avenue-(Rye Beach Pharmacy)**

28

- 29 • The Commission reviewed the background information prepared by the City Planner,
30 which noted that the application would require 64 parking spaces, but that the
31 Commission can reduce the required parking to 32 parking spaces. The granting of
32 the parking space reduction of one space per 200 square feet of floor area is
33 reasonable and consistent with the Commission's prior practice. The Commission
34 agreed that 32 spaces is the minimum parking required for the purpose of seeking
35 the zoning code variance.
36
- 37 • The Commission agreed that the applicant's suggestion of using parking spaces of
38 area residential units is not enforceable or practical. The Commission noted that the
39 parking spaces adjacent to the property are on land owned by Westchester
40 County/Playland and that they may have the right to revoke the use of this land for
41 parking. The Commission noted that this would make parking for the applicant's use
42 even more challenging.
43
- 44 • The Commission debated what comments it should forward to the Board of Appeals
45 regarding the application. The Commission agreed that the City Planner should

Rye City Planning Commission Minutes (Cont.)

February 15, 2011

Page 6 of 8

1 prepare a memorandum for its consideration at its next meeting that provides only
2 background and factual information relative to the application including area parking
3 conditions, prior approvals on the property and the variances required. The
4 Commission agreed that the memorandum should not indicate the Commission's
5 opinion of the required variances and whether or not they should or should not be
6 granted.

7 8 **4. 269 Purchase Street**

- 9
- 10 • Jonathan Kraut (applicant's attorney) stated that it was the third time the applicant
11 was before the Commission for the subject application. He stated that the property
12 is located in a B-1 Neighborhood Business District and that it was originally
13 approved as a larger commercial development with second floor apartments. He
14 stated that due to changes in the economic environment, the applicant proposed an
15 alternative plan that was approved by the Commission, which included a smaller first
16 floor business use and second floor apartments on Purchase Street and three
17 single-family homes on Wappanocca Avenue.
18
 - 19 • Mr. Kraut explained that the current application proposes to enclose the first floor
20 parking spaces on the mixed-used property on Purchase Street. He stated that all
21 other aspects of the plan would remain the same. Mr. Kraut stated that enclosing
22 the parking spaces requires a modest floor area ratio (FAR) variance. The B-1
23 District allows only 8,034 square feet of floor area where 8,640 square feet is
24 proposed. Mr. Kraut stated that the 606 square foot increase is modest and is within
25 the total FAR permitted if the property were not subdivided and combined with the
26 residential lots on Wappanocca Avenue.
27
 - 28 • The Commission discussed the proposed garages and how they would be accessed
29 from first and second floor spaces. The Commission also discussed how the
30 change in the internal footprint required for the garage would reduce the size of the
31 commercial space and their potential marketability. Paul Versames (applicant)
32 stated that the commercial space will not be adversely impacted by the proposed
33 change. He noted that the originally proposed plan included significantly more
34 commercial space, but was not marketable. He stated that smaller spaces would be
35 more marketable and in keeping with the residential character of the proposed
36 development and neighborhood. He stated that it was his intention to lease the
37 commercial space to smaller tenants having a floor area of between 400 and 700
38 square feet. Mr. Versames discussed the challenges of leasing larger spaces given
39 the existing commercial market and prevailing rents.
40
 - 41 • The Commission did not object to the FAR and agreed that adequate parking would
42 be provided on the site. The Commission requested that the City Planner prepare
43 for its consideration at its next meeting a memorandum of support for the variance to
44 the Board of Appeals.
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Rye City Planning Commission Minutes (Cont.)

February 15, 2011

Page 7 of 8

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5. 12 Philip Lane

- Seth Mandelbaum (applicant's attorney) stated that the plan had been revised to reduce the amount of impervious area in the wetland buffer as previously requested by the Planning Commission at its February 1, 2011 meeting. Mr. Mandelbaum stated that the revised plan eliminated the previously proposed spa and portion of the terrace resulting in reduction in amount of proposed impervious area. He stated that the revised plan proposed a 167 square foot increase in impervious area in the wetland buffer. He stated that the amount of mitigation plantings has remained unchanged so that the ratio of mitigation plantings to impervious area increase was 6:1. Mr. Mandelbaum stated that the previously proposed parking space in the front yard setback has also been eliminated on the revised plan.
- Mr. Mandelbaum requested that the Commission provide a referral to the Board of Appeals so that the applicant can initiate the variance process required for the proposed residence.
- The Commission questioned the location of the pool equipment. The applicant stated that the pool equipment would be located next to the garage.
- The Commission questioned whether wells will be drilled on the property for the proposed geothermal system, noting that a depth of approximately 300 feet would be required. Mack Patterson (applicant's architect) stated the proposed well depth would be 240 to 250 feet deep and that solar heating would be used for the pool.
- The Commission stated continued concern with the size, location and configuration of the pool within the wetland buffer. The Commission stated that it does not approve pools within the buffer where such impacts can be avoided. The Commission stated that amount of impervious area and the extent of encroachment of the pool in the buffer can be reduced with alternative site and house designs. The Commission stated that it was concerned with the precedent that would be set by approving a pool in the wetland buffer when reasonable alternatives existed. The Commission noted that the proposed pool would be closer to the wetland than any existing structure on the property and that the proposed plan should enhance the wetland buffer.
- Mr. Mandelbaum responded that the plan balances the reasonable requests of the Planning Commission with the applicant's desired house plan. Mr. Mandelbaum stated that the pool size is not excessive and is reasonable. He stated that the increase in impervious area is modest and that such impervious area consists of bluestone patio, which has less impact on the buffer as compared to other impervious area such as asphalt.

Rye City Planning Commission Minutes (Cont.)

February 15, 2011

Page 8 of 8

- 1 • The Commission stated that a revised plan must be presented that has no increase
2 in impervious area. The Commission stated that the extent of pool encroachment
3 was not acceptable and would create an undesirable precedent for future
4 applications it might consider. The Commission stated that it would not provide the
5 requested referral to the Board of Appeals until a revised plan was presented for its
6 consideration that reduced wetland buffer impacts. The Commission also noted that
7 the CC/AC has not provided comments on the most recent plan submission.
8
- 9 • Alan Pilch (applicant's landscape architect and engineer) stated reviewed the
10 proposed drainage and wetland mitigation plan. He stated that the proposed
11 reduction in lawn area (and associated fertilizer use) with native plantings will be an
12 improvement. He also stated that the rain gardens and sub-surface cultec units
13 would provide additional stormwater quality benefits.
14
- 15 • The Commission stated that the plan was not zoning compliant and required an FAR
16 variance, which may be complicating the applicant's ability to provide everything it
17 desires on the property including the proposed house and related residential
18 amenities such as a three-car garage and pool. The Commission stated that since
19 the applicant proposes the removal of the existing residence there is flexibility to
20 consider alternative designs. The Commission noted that the applicant's proposed
21 plan has some building envelop in the front yard that could be used to shift the
22 residence forward and reduce buffer impacts. The Commission noted that the
23 Phillips Lane subdivision was approved prior to the City having a wetlands law. New
24 construction must respect the wetlands law. The Commission stated that a 17' x 35'
25 pool and residence may be too much for the applicant's property. The Commission
26 stated that it would consider an alternative design if submitted by the applicant at its
27 next meeting.