

**Rye City Planning Commission Minutes
March 8, 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. Summit Avenue

- Jonathan Kraut (applicant's attorney) stated that the application has been under review for many meetings with the Planning Commission. He described the project noting that it involved the construction of a new residence on an undeveloped lot located at the end of Summit Avenue. He stated that nearly the entire property is located in a wetland buffer. He stated that as requested by the Planning Commission the location of the residence was shifted towards the front property line to minimize disturbance to existing ledge rock located on the rear of the property. Mr. Kraut stated that this plan modification necessitated a variance from the Board of Appeals, which was granted. Mr. Kraut noted other plan modifications that reduced the impact on the wetland buffer to the maximum extent practical including redesigning the residence to locate the proposed garage under the residence and reducing the size of the rear patio. He stated that the plan was also revised to expand the paved portion of the end of Summit Avenue to provide an improved vehicle turn-around area.
- Mrs. Crimm (248 North Street Resident) stated concerns regarding the potential flooding and drainage impacts the project may have on the adjacent Ives Community, of which she is a resident. She stated that she had an engineer review the proposed plans and that it was his opinion that the project may increase the frequency of flooding in the adjacent Beaver Swamp Brook. She stated that the project is required to provide drainage measures to accommodate the 100-year storm event (not 25-year event) as is noted in the current plan. She stated that the applicant's drainage plans do not comply with Section 173-5 of the City's stormwater regulations and that the project will result in an approximately 230% increase impervious area over existing conditions. She stated that the applicant's plans do not adequately mitigate the estimated increase in stormwater runoff associated with the approximately 1,020 square-foot road expansion. She stated that the applicant should consider reducing the footprint of the proposed structure to reduce potential downstream flooding impacts.

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- 1
- 2 • Teresa Caridi (16 Summit Avenue Resident) stated that she is a third generation
- 3 resident of Summit Avenue and that her grandfather built the residence she lives in
- 4 currently. She stated that she supports the development on the applicant's property,
- 5 who is also a family member.
- 6
- 7 • Joe Matino (adjacent property owner) stated that he lives in Greenwich and that he
- 8 owns the adjacent undeveloped property north of the applicant's property. He stated
- 9 that he is an engineer and that he has no concern with potential flooding issues. He
- 10 stated that he supports the project and that he will consider development of his
- 11 property in a similar fashion at some point in the future.
- 12
- 13 • Mr. Kraut stated that the future development intentions of Mr. Matino have no
- 14 bearing on the applicant's proposal. He stated that the applicant successfully
- 15 secured a setback variance from the Board of Appeals for the location of the
- 16 residence. He noted that the size of the residence (i.e. FAR) is below that permitted
- 17 by zoning. He stated that the application would also provide off-site roadway
- 18 improvements, which would be a public benefit.
- 19
- 20 • Alan Pilch (applicant's landscape architect and engineer) reviewed the drainage plan
- 21 and stated that deep hole and percolation tests were conducted to confirm the
- 22 suitability of the soil for the 15 proposed sub-surface culvert units. He stated that
- 23 there is suitable soil to infiltrate stormwater runoff from the proposed development
- 24 and that the capacity of the culverts can accommodate the runoff from a 25-year and
- 25 100-year storm event. He stated that he would supplement his drainage report to
- 26 clarify the capacity of the stormwater system, including its ability to handle the runoff
- 27 from the additional paved area associated with the widening of Summit Avenue. He
- 28 stated that the volume of runoff leaving the site in the post-development condition
- 29 would be less than in the pre-development condition.
- 30

31

32 **ACTION:** Peter Larr made a motion, seconded by Carolyn Cunningham that the

33 Planning Commission closed the public hearing on wetland permit

34 application number WP293, which was carried by the following vote:

35

36 Nick Everett, Chair:	Absent
37 Martha Monserrate, Vice- Chair:	Aye
38 Carolyn Cunningham:	Aye
39 Barbara Cummings:	Aye
40 Hugh Greechan:	Aye
41 Peter Jovanovich	Aye
42 Peter Larr:	Aye

43

44 II. ITEMS PENDING ACTION

45

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1. Summit Avenue

- The Commission stated that it has not received the comments from the CC/AC regarding the most recent plan. The Commission requested that the CC/AC review the most recent revised plan prior to its next meeting.
- The Commission discussed the proposed improvements to Summit Avenue and whether it should be widened to a uniform width of 18 feet. The Commission agreed that 16 feet was acceptable given the need to reduce potential impacts on the adjacent wetland. The Commission noted that a minimum 16-foot width would provide suitable access given that the road would comply with all other provisions of the Standards for Private Streets adopted by the Commission in 1968. The Commission stated that its rationale for the two-foot reduction in the paved width standard should be included in its resolution of decision for the application.
- Mr. Kraut stated that the applicant has made significant revisions to the plan to reduce impacts on the wetland buffer to the maximum extent practical. He stated that all trees on the property have been shown on the plan. He stated that the house has been moved forward to reduce the amount of proposed rock removal. The proposed patio has been changed to a pervious material and the total amount of impervious area has been reduced. He stated that the landscape mitigation plan has been revised to provide a higher mitigation planting ratio.
- The Commission requested that the CC/AC provide comments on the final revised plan and that the applicant provide additional engineering information responding to the comments raised by Mrs. Crimm regarding compliance with the City's stormwater requirements.

2. Wainwright House

- The Commission stated that it had received a draft resolution from the City Planner for its consideration. The Commission stated that it had conducted an inspection of the property to review the site conditions and relationship to surrounding neighbors. The Commission noted that prior to adopting a resolution it would discuss potential environmental impacts under SEQR and the consistency of the application with the 44 polices of the City's LWRP.
- The Commission discussed its findings at the site walk noting that it could not locate any lighting on the building that appeared objectionable. It noted that the lighting located on the building was shielded and properly cast downward and not out towards neighboring properties.
- The Commission noted that the refuse container located along the northern property line should be relocated closer to the building and away from the abutting residential

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- 1 neighbor. The Commission noted that the relocated refuse container should be
2 properly screened. The Commission requested that the applicant provide a revised
3 plan showing the specific location of the relocated refuse container and screening
4 measures.
5
- 6 • The Commission noted that it observed bricks and other materials storage within the
7 100-foot buffer of Milton Harbor. The Commission requested that these materials be
8 removed from the buffer.
9
 - 10 • The Commission discussed the compliance of the application with the City's LWRP.
11 It reviewed the 44 policies and noted that Wainwright is a semi-public use that offers
12 access to the coastal area. The tents offer opportunities for greater public access to
13 the water and coastal resources. The Commission did note that there is a concern
14 the tent may have an impact on the historic character of the Wainwright House and
15 scenic resources. It noted, however, that these concerns were properly mitigated by
16 limiting the duration that the tents can remain in place to between May 1 and
17 September 30.
18
 - 19 • The Commission reviewed the potential adverse impacts of the proposed action on
20 the environment. The Commission noted that most of the public comment related to
21 concerns regarding noise, traffic and neighborhood character. The Commission
22 noted that none of the impacts were considered significant enough to trigger a
23 positive declaration under SEQR and the preparation of a full environmental impact
24 statement. The Commission noted that the restrictions on the tent use, particularly
25 the limitation on the number of events, and the measures proposed by the applicant
26 to address traffic and noise concerns adequately mitigated potentially significant
27 adverse impacts.
28
 - 29 • The Commission provided an overview for the benefit of the applicant and public the
30 conditions included in the resolution of approval. The Commission debated whether
31 the number of permitted events is appropriate for years 2012 and beyond. It was the
32 majority consensus of the Commission that no more than 10 tented wedding events
33 should be permitted in 2012 and beyond. The Commission noted that this was less
34 than what the applicant had proposed.
35
 - 36 • The Commission agreed on other conditions included in the draft resolution including
37 restrictions on when the tent can be installed, time restrictions on amplified noise
38 and a requirement that at the time the applicant applies for an annual building permit
39 to install the tents it must notify the Building Inspector of the types and dates of such
40 events. The Commission noted that the conditions appeared enforceable for the
41 appropriate City staff.
42
 - 43 • The Commission reviewed the rationale in the draft resolution supporting its findings
44 under section 197-10 of the Rye City Code.
45

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- 1 • The applicant reviewed the refuse practices of Wainwright and noted that the refuse
2 container noted by the Commission on its site inspection is not used for weddings or
3 tented events. It is used for general refuse related to Wainwright House. All
4 wedding trash is kept inside the kitchen where it is removed. The Commission
5 agreed that the resolution should be amended to prohibit any outdoor storage of
6 refuse related to tented events.
7
- 8 • The Commission discussed amending the resolution to prohibit amplified music for
9 non-wedding tented events.
10
- 11 • The Commission noted that it had additional typographical and non-substantive
12 organizational changes to the resolution that it would forward to the City Planner.
13
- 14 • The Commission requested a revised resolution reflecting the changes it discussed
15 for its next meeting. The Commission also stated that it wanted to review the
16 applicant's revised plans before adopting the resolution.
17

18

19 **3. 464 Forest Avenue**

20

- 21 • The Commission reviewed a draft memorandum to the City Board of Appeals
22 prepared by the City Planner regarding its comments on the required parking
23 variance for the application. The Commission noted that the memorandum should
24 not indicate its support for the application, but merely provide background on the
25 history of the site, prior approvals and existing area parking conditions.
26

27

28 **ACTION:** Peter Larr made a motion, seconded by Martha Monserrate that the
29 Planning Commission forward a letter to the Board of Appeals regarding
30 the variances required for site plan application number SP#324, which
31 was carried by the following vote:
32

33	Nick Everett, Chair:	Absent
34	Martha Monserrate, Vice- Chair:	Aye
35	Carolyn Cunningham:	Aye
36	Barbara Cummings:	Aye
37	Hugh Greechan:	Aye
38	Peter Jovanovich	Aye
39	Peter Larr:	Aye

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42 **4. 269 Purchase St**

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- 1 • The Commission reviewed a draft memorandum to the City Board of Appeals
2 prepared by the City Planner regarding its comments on the required FAR variance
3 for the application. The Commission had no objection to the proposed variance.
4
5

6 **ACTION:** Peter Larr made a motion, seconded by Martha Monserrate that the
7 Planning Commission forward a letter to the Board of Appeals regarding
8 the variances required for site plan application number SP#321, which
9 was carried by the following vote:

10		
11	Nick Everett, Chair:	Absent
12	Martha Monserrate, Vice- Chair:	Aye
13	Carolyn Cunningham:	Aye
14	Barbara Cummings:	Aye
15	Hugh Greechan:	Aye
16	Peter Jovanovich	Aye
17	Peter Larr:	Aye
18		
19		

20 5. 12 Philips Lane

- 21
- 22 • The Commission reviewed the revised plan noting that the patio associated with the
23 proposed pool was removed and that the residence was shifted towards the front lot
24 line by an additional 1.9 feet. Seth Mendelbaum (applicant's attorney) stated that
25 the revised plan reduces the amount of impervious area in the wetland buffer over
26 existing conditions by 209 square feet. In addition, 1,005 square feet of plantings
27 are provided as mitigation and the formerly proposed terrace is proposed to be lawn.
28 He stated that the applicant has done everything it can to reduce the amount of
29 impervious area. He reminded the Commission that the application requires a FAR
30 variance.
31
- 32 • The Commission disagreed and stated that more could be done to revise the plan to
33 reduce the amount of encroachment in the wetland buffer. The Commission noted
34 that the revised plan would still have a structure closer to the wetland edge (i.e. Long
35 Island Sound) than any existing structure on the property. The Commission stated
36 that the applicant is proposing a new residence, which allows it greater flexibility to
37 modify the house design and pool location to reduce the encroachment in the
38 wetland buffer. The Commission noted that it does not support encroachments in
39 the wetland buffer for accessory structures such as pools. The Commission stated
40 that on the adjacent 14 Philips Lane property it was able to achieve a reduction in
41 impervious area and shift all proposed structures further from Long Island Sound
42 than the existing residence and pool on the property.
43
- 44 • Helene Mathisson (applicant) stated that she has worked with the Commission to
45 revise the plans and reduce the amount of impervious area in the wetland buffer.

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1 She stated that she met with the City Planner prior to submitting the application and
2 that she has made a number of substantial revisions including eliminating the
3 originally proposed spa and reducing, then eliminating, the proposed terrace around
4 the pool. She stated that the revised application does not have an adverse
5 environmental impact on the environment. Ms. Mathisson added that she supports
6 environmental protection and that she is a board member of the Rye Nature Center.
7

- 8 • Ms. Mathisson stated that the pool should not be considered a recreational amenity.
9 The pool provides therapy for her 11-year old autistic child. She stated that public
10 pools are not conducive to her child's medical needs.
11

- 12 • The Commission stated that the pool is a permanent installation and that it must be
13 concerned with the precedent the approval of the pool would have on its review of
14 other similar applications. The Commission noted that after the pool is constructed
15 the property could be sold to a family that does not have the same needs as the
16 applicant. The Commission noted that the house could be redesigned and the pool
17 configuration and location modified to reduce the wetland buffer impact. The
18 Commission stated that the applicant has such flexibility. Ms. Mathisson responded
19 that the pool is located based on its solar orientation.
20

- 21 • Mr. Mendelbaum stated that the application is a responsible one and balances
22 reasonable needs of the applicant while reducing impacts on the wetland buffer. He
23 stated that the application results in a reduction in impervious area. In many cases
24 the Commission approves increases in impervious area in the wetland buffer.
25

- 26 • The Commission stated that the property is encumbered with a wetland buffer. The
27 applicant is seeking approval for the construction of a residence including a three-
28 car garage and swimming pool in a wetland buffer. The applicant needs to consider
29 alternative designs that reduce wetland buffer impacts and increases the separation
30 of the pool from Long Island Sound. The Commission noted that it was successful in
31 achieving such a design on the adjacent 14 Philips Lane property.
32
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34

35 **6. 255 Grace Church Street**

36

- 37 • Richard Horsman (applicant's landscape architect) presented a proposal to revise
38 the location of the approved shared-driveway serving the residence on the property.
39 He noted that the alternative location would provide a separate driveway that would
40 be shorter than the approved driveway resulting in 700 square feet less impervious
41 area in the wetland buffer.
42

- 43 • The Commission noted concern that the alternative driveway would be closer to the
44 adjacent property. Mr. Horsman stated that the alternative driveway would be
45 straighter and parallel the property line resulting in no headlight glare into the

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1 adjacent property. He also stated that while the alternative driveway would be closer
2 to the adjacent property it would be less visible because of changes in elevation.
3 The adjacent neighbor would look over the alternative driveway. The approved
4 driveway would be more visible. Mr. Horsman stated that vegetation could be added
5 to the plan to improve screening.
6

- 7 • The Commission noted that many of the benefits of the alternative driveway in terms
8 of the reductions in site disturbance will not be realized because construction on the
9 residence has already started and the driveway path partially cleared and graded.
10 Mr. Horsman noted that more site disturbance is still necessary to construct the
11 approved driveway including the construction of retaining walls. He also stated that
12 this area could be restored with new landscape plantings.
13

- 14 • The Commission stated concern that the alternative driveway would result in the loss
15 of a wetland area. Mr. Horsman responded saying that the alternative driveway
16 would provide for a more interconnected mitigation plan that was not bisected by the
17 approved driveway.
18

- 19 • The Commission did not agree to the alternative driveway alignment and stated it
20 needed more information. The Commission requested that the applicant provide a
21 more detailed landscape plan of the wetland mitigation area, landscape screening
22 for the adjacent property and a restoration plan of the area already disturbed by the
23 partial construction of the approved driveway. The City Planner added that the plan
24 would also require the same hydrological analysis by an engineer to confirm that the
25 on-site wetland hydrology would be preserved and that off-site wetlands would not
26 be adversely impacted. The Commission also requested that the applicant provide
27 information on the number of trees to be removed. This may require amending the
28 approved tree preservation plan.
29
30

31 **7. 38 Brevoort Lane**

- 32
33 • Richard Horsman (applicant's landscape architect) stated that the applicant is
34 seeking to install a driveway gate to prevent deer from entering his property. Mr.
35 Horsman noted that the wetland is a small stream that bisects the property in the
36 front yard. He stated that the entire property is located in a regulated wetland buffer.
37

- 38 • The Commission noted concern with potentially closing off the entire property to
39 wildlife. The Commission requested that it be provided with comments from the
40 CC/AC.
41

- 42 • The Commission noted that the existing deer mesh/fencing does not comply with the
43 City's fence law and asked the City Planner to confirm with the Building Inspector
44 that the proposed gate is compliant with the fence law. The Commission noted that

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1 the plan will require variances from the Board of Appeals if it is not revised to comply
2 with the law.

3

4 • Mr. Horsman stated that he will discuss potential options with his client.

5

6

7 **8. Rye Neck Property LLC**

8

9 • Dan Natchez (applicant's consultant) reviewed the project noted that it involved
10 modifying an existing tennis court to provide a full/regulation size tennis court. He
11 stated that the existing driveway alignment would also be altered around the tennis
12 court. He stated that there would be a 973 square-foot increase in impervious area
13 in the buffer and that 2,150 square feet of mitigation plantings would be provided, as
14 well as rain gardens to capture and treat stormwater runoff. Mr. Natchez stated that
15 the proposed driveway would be 12-feet wide, which is the minimum recommended
16 to provide safe access.

17

18 • The Commission agreed that the application was complete for the setting of a
19 hearing.

20

21

22 **ACTION:** Peter Larr made a motion, seconded by Carolyn Cunningham that the
23 Planning Commission set the public hearing for the meeting dated March
24 22, 2011 wetland application number WP303, which was carried by the
25 following vote:

26

27 Nick Everett, Chair: Absent

28 Martha Monserrate, Vice- Chair: Aye

29 Carolyn Cunningham: Aye

30 Barbara Cummings: Aye

31 Hugh Greechan: Aye

32 Peter Jovanovich: Aye

33 Peter Larr: Aye

34

35 **9. Review of Draft Improvement Plans for Purchase Street and Locust Avenue** 36 **Intersection**

37

38 • The Commission noted its support for the plan. The Commission discussed the
39 number of parking spaces to be lost on Purchase Street as a result of the project
40 and found it acceptable. The Commission requested that the engineering consultant
41 confirm that fire truck access would not be adversely impacted by the design.

42

43