

Rye City Planning Commission Minutes
May 3, 2016

MEETING ATTENDANCE:

Planning Commission Members:

- Nick Everett, Chair
- Martha Monserrate, Vice-Chair
- Andrew Ball
- Laura Brett
- Hugh Greechan
- Richard Mecca
- Alfred Vitiello

Other:

- Christian K. Miller, AICP, City Planner
 - Carolyn Cunningham, CC/AC Chair
 - Melissa Johannessen, AICP, LEED AP
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I. HEARINGS

1. 6 Martin Butler Court

- Mr. Jonathan Kraut, applicant’s attorney, Mr. Rex Gedney, applicant’s architect, and Mr. Alan Pilch, applicant’s engineer, were present for the application. Mr. Kraut gave a brief overview of the application, stating that it involves the construction of a new residence, pool, and pool house. He noted that there are currently a residence and pool on the site, as well as a gazebo on a portion of the property close to Long Island Sound. Mr. Kraut stated that the new residence will be located substantially within the footprint of the existing house and the new pool will be located further outside of the wetland buffer than the existing pool. He stated that there will be a reduction of 964 sf of impervious area in the wetland buffer compared to the existing condition. Mr. Kraut also noted that much of the area that is within the wetland buffer has already been disturbed or is maintained lawn.
- The Commission asked if any changes had been made to the plan since the last meeting. Mr. Kraut said no.
- There were no additional questions from the Commission and no comments from the public.

ACTION: Laura Brett made a motion, seconded by Martha Monserrate, to close the public hearing for Wetland Permit application number WP#413, which was carried by the following vote:

- Nick Everett, Chair: Aye
- Martha Monserrate, Vice-Chair: Aye
- Andrew Ball: Aye
- Laura Brett: Aye
- Hugh Greechan: Aye

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1 Richard Mecca: Aye
2 Alfred Vitiello: Absent
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5 **2. 20 & 26 Gramercy Avenue**
6

- 7 • Mr. Jonathan Kraut, applicant’s attorney, was present for the application. Mr.
8 Kraut stated that there are two separate applications for 20 and 26 Gramercy, but
9 they were brought before the Commission simultaneously because the two
10 applications share common impacts. Mr. Kraut stated that Mr. Bill Kenny, wetland
11 consultant, and Mr. Richard Horsman, landscape architect, were also present
12 and would be available to address questions if necessary.
13
14 • Mr. Kraut stated that the applications involve two zoning-compliant single-family
15 homes that do not require any variances. He stated that the sites currently
16 contain a very low-functioning, low quality wetland and noted that Mr. Kenny will
17 discuss the wetlands later. Mr. Kraut stated that the total area of impervious
18 surfaces in the wetland buffer is 7,484 sf and the total amount of mitigation is
19 7,874 sf.
20
21 • Mr. Kraut stated that he heard third- or fourth-hand that modifications were made
22 to the wetland prior to submission of the present applications. He stated that
23 there had been a liner in the wetland, put in place by the previous property
24 owner, that was removed to allow for better water flow.
25
26 • The Commission asked Mr. Kenny to provide a summary of the impacts to the
27 wetland, including water quality and water quantity impacts. Mr. Kenny stated
28 that he is a wetland and soil scientist and a registered landscape architect and he
29 was hired to help with the project. He stated that he mapped the existing
30 conditions on the properties and designed the proposed wetland enhancements.
31 Mr. Kenny stated that the watershed of the wetland is approximately one-third the
32 size it used to be before development of the road and the surrounding area. He
33 stated that there is limited vegetative cover and diversity and almost no shrub
34 layer.
35
36 • Mr. Kenny stated that the design for the wetland includes reconfiguring it and
37 expanding its size by approximately 10%. He stated that the primary function of
38 the wetland as it exists today is water detention, whereas the goal of the
39 enhancement is for the wetland to function as a stormwater management area.
40 He noted that the wetland enhancement includes the planting of 26 trees, 136
41 shrubs, 750 ground cover herbs, and over 1,000 plants in the upland buffer.
42
43 • Mr. Kenny stated that as a stormwater management system, the wetland
44 enhancement has been designed to capture water from the development and

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1 provide a long flow path through the wetland, which allows the water to be filtered
2 by the plants and soil. He noted that stormwater management is a very important
3 function of the wetland and will help improve the water quality of water flowing to
4 Long Island Sound.

- 5
- 6 • The Commission noted that the applicant has been very responsive to the
7 Commission's concerns about the impact of impervious surfaces.
8
- 9 • The City Planner asked Mr. Kenny to identify for the public the outline of the
10 wetland. Mr. Kenny identified it on the displayed site plan.
11
- 12 • Mr. Kenny stated that the surface of the driveway will be porous. Mr. Kraut stated
13 that the driveway will be semi-pervious but the stormwater management system
14 was designed as if it were a fully impervious surface to be conservative.
15
- 16 • Mrs. Nuria Gormley, 34 Gramercy Avenue – Mrs. Gormley stated that she has
17 lived at 34 Gramercy Avenue for 23 years. Mr. Kraut showed her a map of the
18 neighborhood and she identified the location of her home. Mrs. Gormley stated
19 that the project site does not drain and is very wet. She stated that the previous
20 owners put in a pond, and when the new owners bought it, they took down over
21 30 trees. She stated they have already destroyed the ecosystem. Mrs. Gormley
22 noted that her property is high on a rock. She also stated that she has lived
23 through other development on her street before.
24
- 25 • Mrs. Gormley stated that she was concerned about the 5' of space between her
26 property line and the proposed driveway of 26 Gramercy. She asked how plants
27 were going to be planted in that area and stated that it is always wet there.
28
- 29 • The Commission pointed out that the green area on the site plan was the
30 wetland.
31
- 32 • Mrs. Gormley asked whether the wetland will be a pond, if it will have a wall
33 around it, and whether there will be mosquitoes. She also asked what is going to
34 be between her property and the adjacent one. She stated that she does not
35 understand what is being proposed.
36
- 37 • The City Planner stated that a pipe will be installed to capture runoff from her
38 property and direct it across the adjacent property.
39
- 40 • The Commission asked Mr. Kraut if he would like to respond to Mrs. Gormley.
41 Mr. Kraut stated that he would like to hear all of the public comments and then
42 respond. The Commission agreed.
43

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- 1 • Mr. Robert Sawyer, 19 Gramercy Avenue – Mr. Sawyer stated that he sent the
2 Building Department pictures of water on the site. He stated that water comes
3 from the back of the property and is not just going to stop. He stated that water
4 comes up from the street. Mr. Sawyer stated that he lives across the street from
5 the subject properties. He also stated that he is building a master bathroom
6 addition on his house and stated that it is solid rock. He stated that he does not
7 think the wetland will hold water.
8
- 9 • Mr. Phil Gormley, 34 Gramercy Avenue – Mr. Gormley stated that he was not
10 sure how much of the property will be leveled and stated that where the houses
11 will go is much higher. He stated that he is concerned about the driveway and
12 wondered what kind of buffer there will be.
13
- 14 • Mrs. Ellen Cifarelli, 25 Gramercy Avenue – Mrs. Cifarelli stated that her husband
15 built the road and all of the neighbors are responsible for the road. She asked
16 whether the City will require the applicant to put up a bond for the road. She
17 stated that the road is very narrow and trucks have already ripped out the street
18 sign. She stated that the applicants really need to address the road.
19
- 20 • Mr. Mario Ciampi, 43 Gramercy Avenue – Mr. Ciampi asked if the sole purpose
21 of the meeting was to discuss the wetland. The Commission responded that it is
22 an existing subdivision and the application is for a wetland permit. The
23 Commission noted that the placement of the driveway can be discussed because
24 it is being driven by the wetland. Mr. Ciampi stated that the road is private and
25 they would love to turn it over to the City. The City Planner responded that the
26 road is not built to City specifications and therefore the City cannot take
27 ownership of it. Mr. Ciampi stated that there is not a lot of visibility along that area
28 of the road. He stated that it is difficult to exit the driveways and there is limited
29 sight distance. He stated that the road is heavily vegetated now and the locations
30 of the driveways and curb cuts should be reconsidered.
31
- 32 • Mr. Kraut stated that 30 trees were not removed. He stated that some trees were
33 removed that were either diseased and dying or already dead. He stated that Mr.
34 Horsman could address that further if needed.
35
- 36 • Mr. Kraut stated that although the applications are not here for site plan approval,
37 he would like to address the comments and be a good neighbor. Mr. Kraut stated
38 that the 5' buffer will be able to support healthy vegetation. He also stated that
39 one-half to one-third of 34 Gramercy drains to the subject property. He noted that
40 there is a great deal of rock in the area, which does cause poor drainage
41 conditions. He stated that the proposed project will control up to the 100-year
42 storm and will be beneficial in terms of its impact on drainage.
43

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- 1 • Mr. Kraut stated that the grading plan does not include anything significant. He
2 stated that the intent is to make the wetland highly functioning. He noted that the
3 wall around the wetland is to prevent encroachment into the wetland. Mr. Kraut
4 stated that Mr. Kenny can discuss that issue further.
5
- 6 • Mr. Kraut stated that regarding the concerns about road damage, the applicant is
7 a responsible developer and will have the legal responsibility to repair any
8 damage to the road caused during construction. He stated that it would be foolish
9 to leave a damaged road in front of beautiful new homes. He stated that the
10 applicant will make sure it is taken care of. He also noted that the City cannot
11 request a bond because the road is private.
12
- 13 • Mr. Kraut stated that the curb cuts will be subject to the judgment of the City
14 Engineer. He stated that the placement of the curb cuts was reviewed with the
15 applicant's engineer and they do not fail any traffic safety standard.
16
- 17 • Mr. Kraut asked Mr. Kenny to respond to some of the neighbors' concerns. Mr.
18 Kenny stated the wetland is a low point in the neighborhood, with a bottom
19 elevation of 48'. He stated that the street is approximately 3.5' higher and the
20 house across the street is another foot higher than that. He stated that water will
21 flow out to the pipe in the street via a controlled flow.
22
- 23 • The Commission asked what will happen in a major rain event. Mr. Kenny stated
24 that water will fill the wetland and will slowly exit into the pipe in the road, much
25 like draining a bathtub. The Commission noted that there will be benefits to the
26 community in terms of both water quality and quantity.
27
- 28 • Mr. Kenny stated that there will be a boulder curb at the bottom of the slope to
29 control invasive plants from entering the wetland. He stated that it also limits the
30 encroachment of the lawn area.
31
- 32 • Mr. Kenny stated that the elevation is 60' about 15-20' beyond the rear property
33 line and the elevation of the houses is 52'.
34
- 35 • The Commission asked about construction phasing of the project. Mr. Kenny
36 stated that the wetland will function as a sediment containment area in its current
37 state. He noted that a CO will not be released for either property until the
38 common improvements are made.
39
- 40 • The Commission asked if construction vehicles could be accommodated onsite.
41 Mr. Kraut stated that construction vehicles will not impede traffic flow.
42

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1	Andrew Ball:	Aye
2	Laura Brett:	Aye
3	Hugh Greechan:	Aye
4	Richard Mecca:	Aye
5	Alfred Vitiello:	Absent

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7

8 **II. ITEMS PENDING ACTION**

9

10 **1. 6 Martin Butler Court**

11

- 12 • The Commission noted that the CC/AC memo was reviewed at the last meeting
13 and indicated that the revised application was considered acceptable. The
14 Commission then reviewed the draft resolution. The City Planner noted that a
15 clause was added in the resolution that acknowledged the reduction in
16 impervious surfaces requested by the Commission. The Commission noted that
17 the condition requiring a planting bond should be eliminated since no mitigation
18 plantings are proposed. The City Planner stated that the resolution will be revised
19 accordingly.

20

21 **ACTION:** Andrew Ball made a motion, seconded by Martha Monserrate, to approve
22 as amended Wetland Permit application number WP#413, which was
23 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	Hugh Greechan:	Aye
30	Richard Mecca:	Aye
31	Alfred Vitiello:	Absent

32

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34 **2 & 3. 20 & 26 Gramercy Avenue**

35

- 36 • The Commission discussed the construction sequencing. The Commission stated
37 that the common improvements would be required to be completed before a CO
38 could be given. The Commission asked whether the walls around the wetland
39 would need to be built but the plants could be left out. The City Planner stated
40 that typical silt fencing is all that would be necessary. Mr. Kraut stated that it is
41 the applicant's intention to follow best practices and noted that there will be a
42 sediment and erosion control plan for the site. He noted that there are different
43 ways to go about constructing the wetland and Mr. Kenny can address them.

44

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- 1 • The City Planner stated that an easement will be required. He stated that the
2 common improvement would have to be done prior to the issuance of one CO.
3 Mr. Kraut stated that there would be cross covenants; each lot would have the
4 same stipulation where no CO is issued on either lot until the wetland
5 improvements are done.
6
- 7 • The Commission reviewed the draft resolution. The City Planner noted that
8 Condition 1A requires a legal agreement regarding the stormwater
9 improvements, complete with metes and bounds, defined on the plan and in a
10 narrative. He stated that with respect to erosion and sediment control “devices” in
11 Condition C1, he recommends leaving it flexible because there are different ways
12 to address sediment during construction.
13
- 14 • The Commission asked whether the drainage pipe will be installed before
15 construction begins. The City Planner said no because if so, it would fill with
16 sediment. He noted that the resource to protect does not currently exist on-site; it
17 will be created as part of the construction. He stated that drainage measures will
18 therefore be last. He also noted that the City Engineer will review the sediment
19 and erosion control plan.
20
- 21 • The Commission reviewed Condition D1 regarding issuance of the CO and
22 agreed with the language. The Commission noted that the resolution should
23 make reference to improvements in both water quality and water quantity. Mr.
24 Kenny noted that in small storms, water may not even flow to the outfall location.
25 He also noted that infiltration was not considered in the stormwater system. The
26 City Planner noted that he will revise the resolution to note quantity
27 improvements as well as quality.
28
- 29 • The Commission had no other comments. The Commission noted that it is
30 confident the project will improve water quality and control the amount of water
31 leaving the site. The Commission also noted that when the building permit
32 application is filed and the project goes before the BAR, notice will be provided to
33 abutters and residents across the street from the site. The Commission also
34 stated that the City Engineer will review the surface water control permit and the
35 construction plans.
36

37 **ACTION:** Laura Brett made a motion, seconded by Richard Mecca, to approve
38 Wetland Permit application number WP#408, which was carried by the
39 following vote:

40		
41	Nick Everett, Chair:	Aye
42	Martha Monserrate, Vice-Chair:	Aye
43	Andrew Ball:	Aye
44	Laura Brett:	Aye

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1 Hugh Greechan: Aye
2 Richard Mecca: Aye
3 Alfred Vitiello: Absent
4

5 **ACTION:** Laura Brett made a motion, seconded by Richard Mecca, to approve
6 Wetland Permit application number WP#409, which was carried by the
7 following vote:
8

9 Nick Everett, Chair: Aye
10 Martha Monserrate, Vice-Chair: Aye
11 Andrew Ball: Aye
12 Laura Brett: Aye
13 Hugh Greechan: Aye
14 Richard Mecca: Aye
15 Alfred Vitiello: Absent
16
17

18 **4. 11 Trails End**
19

- 20 • Ms. Catherine Wachs of The Lazy Gardener was present for the application. Ms.
21 Wachs stated that she was retained by the applicant to prepare the mitigation
22 planting plan for the project. She stated that a plan had been prepared and
23 provided to the Commission, which showed the areas of plantings and listed the
24 plant species. She noted that the proposed plants are salt tolerant and deer
25 resistant and commented that no plants are deer-proof. She stated that a deer
26 repellent spray program is recommended in the beginning of the season to allow
27 the plants to become established. Ms. Wachs stated that some plants will be in
28 pots and others will be planted.
29
- 30 • Ms. Wachs stated that a meadow is proposed in the center below the deck where
31 there is more sun, and the meadow will be bordered by a woodland edge on
32 either side. She also stated that swales will be created where water is currently
33 causing erosion of the soils and will be stabilized by boulders. She noted that the
34 main goal is to keep soils in place.
35
- 36 • Ms. Wachs stated that monitoring of weed growth will be necessary every
37 several weeks until the plants fill in. She noted that it typically takes three
38 growing seasons for plant material to reach its full size.
39
- 40 • The Commission asked whether any physical barriers to deer are proposed, such
41 as fencing. Ms. Wachs stated that none are proposed.
42
- 43 • The City Planner noted that a planting bond will be required for a period of two
44 years, so the applicant must be diligent in ensuring the plants' survival or risk

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1 losing the bond. Mr. Willard, the applicant, stated that he hired The Lazy
2 Gardener for that reason, to help the plants get established and survive.

- 3
4 • The City Planner noted that all details, such as the swales, boulders, and the
5 numbers and sizes of plants, will need to be shown on the plans.
6
7 • The Commission discussed physical barriers to deer. The City Planner noted that
8 any fencing would need to be shown on the plans and the applicant stated that
9 he does not intend to install any fencing. The City Planner stated that netting will
10 not be prescribed but could be used by the applicant.

11
12 **ACTION:** Martha Monserrate made a motion, seconded by Laura Brett, to set the
13 public hearing for Wetland Permit application number WP#414, which was
14 carried by the following vote:

15
16 Nick Everett, Chair: Aye
17 Martha Monserrate, Vice-Chair: Aye
18 Andrew Ball: Aye
19 Laura Brett: Aye
20 Hugh Greechan: Aye
21 Richard Mecca: Aye
22 Alfred Vitiello: Absent

23
24
25 **5. Rosemary and Vine-Outdoor Dining Permit**

- 26
27 • Mr. Beri Yeretian, applicant, was present for the application. Mr. Yeretian noted
28 that the plan had been submitted to the Commission, which showed the
29 placement of four small bistro tables of 24” in diameter. He stated that each table
30 will seat two people. He circulated photos of model tables and chairs that he set
31 up outside of the restaurant for demonstration purposes. He also noted that all of
32 the tables provide the minimum required clearance along the sidewalk.
33
34 • The City Planner noted that the tables on the Locust Avenue side of the
35 restaurant are in close proximity to the stop sign and light pole. The City Planner
36 asked the applicant to submit the photos to the Commission for inclusion in the
37 application file. He also noted that the building department will keep track of any
38 complaints that are received during this outdoor dining season, which will inform
39 the decision of whether to grant another permit for next year. Mr. Yeretian
40 stated that he understood.

41
42 **ACTION:** Hugh Greechan made a motion, seconded by Laura Brett, to approve
43 Outdoor Dining Permit application number OD#12-2016, which was
44 carried by the following vote:

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1
2 Nick Everett, Chair: Aye
3 Martha Monserrate, Vice-Chair: Aye
4 Andrew Ball: Aye
5 Laura Brett: Aye
6 Hugh Greechan: Aye
7 Richard Mecca: Aye
8 Alfred Vitiello: Absent
9

10
11 **6. Minutes**

- 12
13 • The Commission reviewed the minutes from the April 19, 2016 meeting and
14 made no revisions.
15

16 **ACTION:** Laura Brett made a motion, seconded by Richard Mecca, to approve the
17 minutes from the April 19th meeting, which was carried by the following
18 vote:
19

20 Nick Everett, Chair: Aye
21 Martha Monserrate, Vice-Chair: Aye
22 Andrew Ball: Aye
23 Laura Brett: Aye
24 Hugh Greechan: Aye
25 Richard Mecca: Aye
26 Alfred Vitiello: Absent
27
28
29