

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: 372-374 ELM STREET, Special Exception to permit zero parking spaces where 6 are required for the outdoor patio and game room for a restaurant in a BA zone (Owner: Hang Seng, Inc. Applicant: Punhon Chan).
REPORT: 1447-12
ADVICE: Approval with Conditions

PRINCIPAL APPLICABLE REGULATIONS

Section 45(a)(7) Board of Zoning Appeals shall have the power to lessen the requirements of this ordinance as to the number of parking or loading spaces required and/or increase the maximum allowable walking distance to such parking spaces, but only upon a finding that such other standards will be adequate. All deviations from normal requirements by means of this paragraph (7) shall be considered as special exceptions under subsection 63(d) of this ordinance, and the Board of Zoning Appeals may impose time limits where it finds that the continued adequacy of such other parking or loading standards cannot be fairly predicted.

Section 63(d) concerning all Special Exception Standards

BACKGROUND

Applicant with an existing restaurant with a restaurant full liquor license is requesting a Special Exception for no on-site parking where six spaces are required in order to permit the serving of alcoholic beverages in illegally expanded portions of the business.

PLANNING CONSIDERATIONS

Earlier this year the new management of this restaurant took steps to renew the existing restaurant full liquor permit. Part of that process involved obtaining a zoning sign-off on the liquor permit application form. Subsequent to that sign-off and based on inquiries to the Liquor Commission this office made the determination that portions of the restaurant that had been shown in the 1988 variance application as being devoted primarily to storage were actually being used for customer seating and liquor service. In addition it was determined that existing outside seating (on private property) had never received any zoning approval. Seeking to now extend the restaurant liquor permit to both the rear interior and front patio area necessitates requesting relief from an additional on-site parking requirement for customer seating in those areas.

Special Exception Criteria Section 63(d)(3)

- a) Nature of the Proposed Site: The restaurant is located in a mixed-use building (commercial/residential) in BA zone at the intersection of Elm St. and Howe St. Located in an area surrounded by medium/ high density residential development, some first floor commercial/retail space and a nearby church, this business shares the site with another restaurant and two residential dwelling units. The Building Department had expressed concerns about adequate rear access and bathroom facilities, each of which has been addressed in the submitted application.
- b) Resulting Traffic Patterns: For two rather apparent reasons, it appears as though this application will generate little or no new vehicle traffic and consequently will have negligible impact on existing parking and traffic in the immediate

neighborhood. First of all the proposed areas of expansion are already in use. Of more significance, however, is the pedestrian based character of this area. This particular restaurant has always relied heavily on a student clientele that for the most part resides within walking distance of this restaurant.

- c) Nature of the Surrounding Area: As noted this property is located in a University-oriented BA zone serving both a student and neighborhood clientele. This adjacency can create a mutually beneficial environment, one in which a sort of balance of interests is

achieved. In this case, however, there have been problems. Noise levels from both inside the building as well as from the patio have affected the quality of life of neighbors for years, as well as bad behavior of customers heading to or (more likely) from the restaurant. It is recognized by staff that the source of much of this conflict between business and neighborhood lies in the nature of this use. Although licensed as a restaurant it has traditionally functioned as more of a drinking establishment. It has not been the type of neighborhood restaurant that the BZA generally grants Special Exceptions for in BA Districts. Having said that however, it is important to remember that this is, with the exception of the two areas at issue, a business that (in terms of zoning only) has operated in this manner for decades and which, for the most part, may continue to do so.

- d) Proximity to Public Buildings: Christ Church is located less than 500 feet away from this property and there is a school, a firehouse and a police substation all located within 1500 feet from this restaurant.
- e) The Comprehensive Plan: The Plan's Housing and Neighborhood Planning section advises that neighborhoods be protected against potentially deleterious and/or nuisance influences. Any approval of this application should provide assurances of that protection.

PUBLIC HEARING:

The applicant, Punhon Chan, appeared before the Board. He explained that he was a new operator of the restaurant and that he was trying to resolve any legal issues regarding the sale of alcohol on or in certain parts of the existing establishment. He said that he had met with the Building Department and had addressed concerns about rear access and bathroom facilities.

Attorney Irving Pinsky spoke in favor of the application. He stated that he had known the applicant most of his life and believed that he was capable of running a restaurant in a responsible manner. Six hands were raised in favor of the application

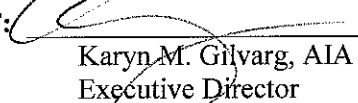
Mr. Rex Gilliland opposed the use, noting a long history of noise, disruptive behavior and traffic problems that have impacted his quality of life that would only be exacerbated by the current application the restaurant description is too similar to a bar. He submitted a petition with the names of 42 nearby residents who were opposed to the application. Three other individuals spoke against the application, citing quality of residential life issues.

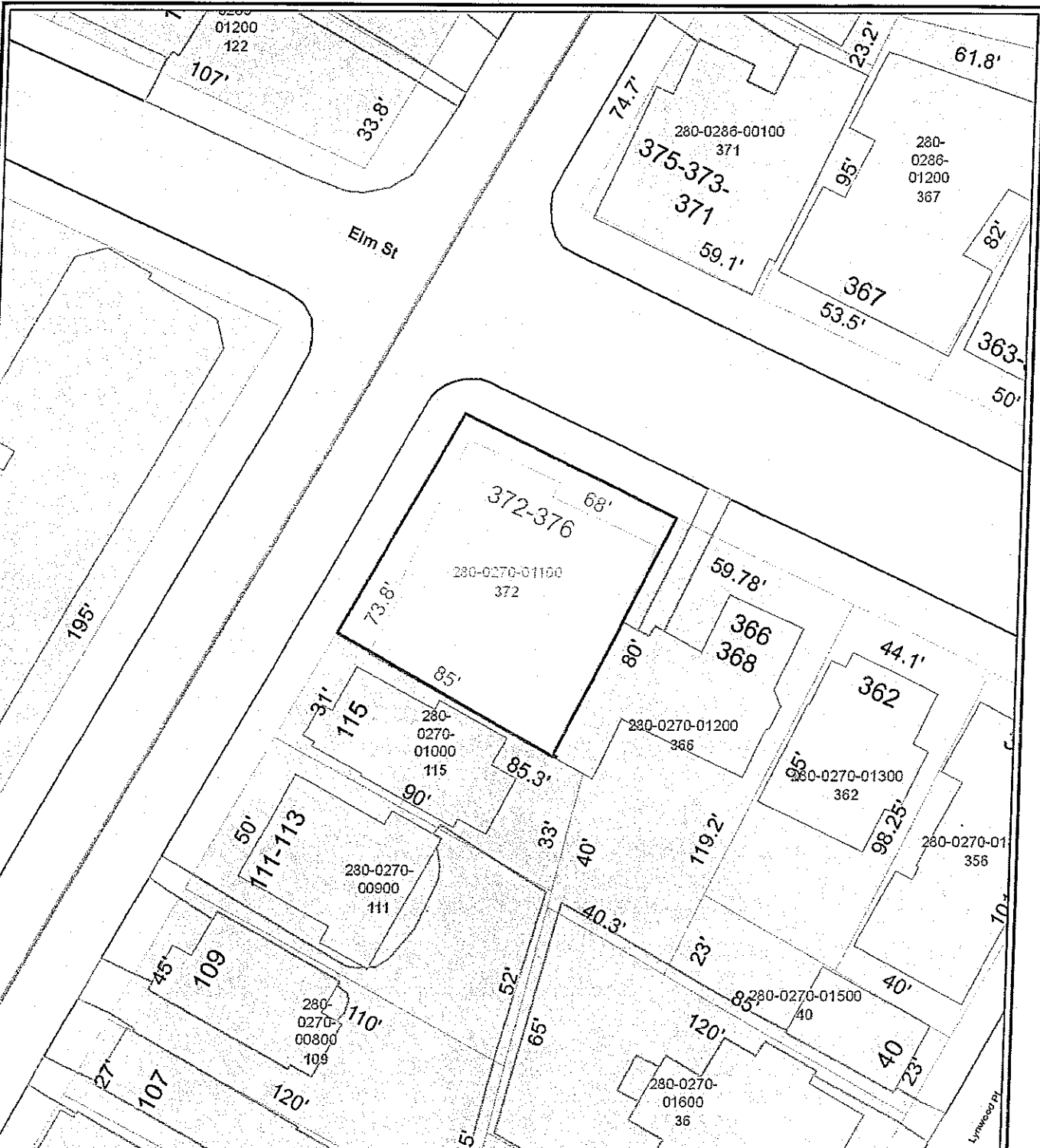
FINDING & ADVICE:

Based on the above considerations staff finds that the application meets the criteria of Section 63(d)(3) of the New Haven Zoning Ordinance and recommends approval of this application with the following conditions. These conditions are made with the understanding that the existing legal portions of the restaurant are not the subject of this application and that any proposed conditions that affect existing portions of the business are re-statements of existing conditions only:

- 1. Entertainment is limited to live bands only.
- 2. Patio use may not extend past 11pm
- 3. No live music or loudspeakers are permitted anywhere outside the building.
- 4. Current one-year access agreement must be extended for at least five years by 11/30/2011 or internal accessway through existing garage must be constructed.
- 5. Liquor Permit for expanded portions of restaurant will not be signed off on by Zoning Enforcement Officer until all proposed building renovations are completed and Certificate of Occupancy issued.

ADOPTED: December 15, 2010
Edward Mattison
Chair

ATTEST: 
Karyn M. Gilvarg, AIA
Executive Director



City of New Haven, Connecticut
John DeStefano Jr., Mayor



372-374 Elm Street

Produced by the
Office of Information Technology
Geographic Data Viewer

- Waterway
- Lake - Pond
- River
- Shoreline
- Stream
- Wetland
- Parcel
- City Boundary Line
- Schools
- Administration
- Food Service
- Private School
- Public School
- Fire Station
- Police Station
- PD Headquarters
- Substation
- Health Centers
- Hospital
- Library
- Railroad
- Railroad Track
- Abandoned Railroad Track
- Airport Runway
- Parcel Line_2005
- Parks
- Park
- Triangle
- Golf Course
- Land Trust Preserves
- Airport boundary
- Shoreline

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Scale: 1" = 40 ft

Created: December 13, 2010

