

## NEW HAVEN CITY PLAN COMMISSION SPECIAL PERMIT

**RE:** 576, 560, 536 and 530 QUINNIPIAC AVENUE. Special Permit Application for the operation of an oyster farm within the Marine Commercial (BC) Zone. (Owner: JB Aquaculture LLC.; Applicant/Agent: Bernard Pellegrino, Esq. of Pellegrino Law Firm.)

**REPORT:** 1589-06

**ACTION:** Approval with Conditions

**Note:** Companion CPC Reports; 1589-03 – Site Plan and Coastal Site Plan Review Approval with Conditions for the same site. 1592-03 Flood Damage Prevention Variance Approval with Notations for the same site.

**Submission:** Special Permit Application, filing fee and original drawing set received: June 14, 2021, Revisions received: June 28, July 15 and August 11, 2021.

### BACKGROUND

Per the City of New Haven zoning regulations Sections 42 and 64, JB Aquaculture LLC., has applied for a Special Permit (and Site Plan Review including Coastal Site Plan Review: CPC Report 1589-03) to operate an Oyster Farm within the Marine Commercial (BC) Zone. Pursuant to Section 41, the Marine Commercial district exists to separate out certain waterfront areas which have - and are encouraged to be - a mix of water dependent public access, recreational boating, public and private marinas, commercial and recreational fishing, community based, water related activities and waterfront residential environments. The applicant wishes to utilize the abovementioned parcels in the operation of an Oyster Farm as categorized in Section 42, Table 3 Paragraph N. Marine; Fishing and Fish Sales (including shellfish) and storage of associated materials. 560 and 576 Quinnipiac Avenue are currently home to the Copp's Island shell storage operation. This use will continue along with additional proposed activities on site.

**Current site conditions:** The western boundary of this site is the Quinnipiac River. The site falls within FEMA's special flood hazard zone, the City of New Haven's Coastal Area Management Boundary and a portion of the site (seaward of 4.6-foot NAVD88) lies within the coastal jurisdiction line for the State. Of the four parcels in this application, 536 and 530 Quinnipiac Avenue are currently vacant. 576 and 560 Quinnipiac Avenue presently serve the water dependent use of the Copp's Island shell storage operation, with the unloading of shells via boats at the pier on the north end of the property. The current shell operation includes four existing 1 and 2-story buildings, an operational pier, an outdoor oyster shell storage pile and an access driveway from Quinnipiac Avenue. The western bank of the Quinnipiac River at this site is armored/reinforced with a wooden bulkhead however, the southern portion of the bulkhead is in disrepair. Tidal wetlands exist at the southern portion of the site between two areas of armored shoreline. The shell storage pile is located east of the tidal wetlands and is separated from the wetland by jersey barriers. There is also a 30" storm sewer outlet in this portion of the shoreline.

**Proposed Activity:** The proposed activity is to expand the current oyster shell storage operation to include a aquaculture fishery operation. As detailed in the associated Site Plan Review, future operations will include a two story Oyster House at the north end of the property and a three story Oyster Hatchery at the midpoint of the property. The Oyster House will include a refrigerated storage area at ground level for cleaned, shelled and packaged product with an upper level for office/visitor center, employee lockers, meeting rooms and dry good storage. The Oyster Hatchery will include a ground level field of eight oyster larva culture tanks and associated pumps, a mezzanine of brood stock conditioning tanks with associated pumps and equipment as well as maintenance access to the ground floor tanks. Lastly the third floor of the Hatchery will include algae growth

tanks (for feeding the oyster stocks on the floors below) and a water quality monitoring lab. Tanks within the Oyster Hatchery will be supplied by and operated with water from the Quinnipiac River. The shell storage pile will remain. East of the shell pile a new storage shed will be constructed to hold equipment and supplies for the maintenance of the shell pile.

**PUBLIC HEARING**

A public hearing was held on September 22, 2021. Minutes of the hearing, CPC meeting 1592, is available from the City Plan Department.

**SPECIAL PERMIT**

Section 64 of the New Haven Zoning Ordinance states:

*Statement of purpose.* The development and execution of a comprehensive zoning ordinance is based upon the division of the city into districts, within which the *use* of land and *structures* and the bulk and location of *structures* in relation to the land are substantially uniform. It is recognized, however, that there are certain *uses* and features which, because of their unique characteristics, cannot be distinctly classified or regulated in a particular district or districts, without consideration, in each case, of the impact of such *uses* and features upon neighboring *uses* and the surrounding area, compared with the public need for them at particular locations. Such *uses* and features are therefore treated as special permits.

Section 42, Table 3 Paragraph N. Marine; states that Fishing and Fish Sales (including shellfish) can be granted within the Marine Commercial (BC) Zone via Special Permit.

<b>Special Permit Criteria</b>	<b>Comments</b>
<p>a. <i>Burden of proof.</i> A special permit shall not be considered an entitlement, and shall be granted by the Commission only after the applicant has demonstrated to the satisfaction of the Commission that all ordinance requirements are met.</p>	
<p>b. <i>Ordinance compliance.</i> The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use as set forth in this ordinance. Any accessory use to a special permit must receive express authorization from the commission.</p>	<p><i>The proposed use is consistent with the uses in the BC zone. Pursuant to Section 41, the Marine Commercial district exists "to separate out certain waterfront areas which have - and are encouraged to be - a mix of water dependent public access, recreational boating, public and private marinas, commercial and recreational fishing, community based, water related activities and waterfront residential environments.</i></p>
<p>c. <i>Comprehensive Plan of Conservation and Development.</i> The Commission shall determine if the proposed special permit's use and improvements comply with the City's development plans.</p>	<p><i>The City's plan calls for preservation of the neighborhood characteristics of the Quinnipiac River District. This application seeks to restore the historic oyster-ing culture of the District and has an architectural design which is in keeping with the surrounding architectural character.</i></p>

<p>d. <i>Natural features.</i> Special permits must preserve trees and other natural site features to the greatest extent possible so as to minimize their impact upon surrounding properties and the district, and must not have an adverse impact on significant scenic vistas or on significant wildlife or vegetation habitat.</p>	<p><i>The western boundary of the parcel is coincident with the eastern bank of the Quinnipiac River. Quinnipiac Avenue runs along the eastern boundary of the project site. The embankment on the eastern side of site is vegetated by mature canopy trees. The remaining site area consists of relatively flat land with surface cover of gravel, asphalt, oyster shells, and buildings used for the current shell operations. A small area of land-contact beach is situated between two areas of reinforced shoreline. The tidal wetland exists between two areas of armored shoreline. As detailed in the associated Coastal Site Plan Review documentation (CPC 1589-03 SPR + C SPR) adjacent and on-site coastal resources include; Coastal Waters, Developed Shorefront, Beached &amp; Dunes, Coastal Hazard Area (as defined by CGS 22a-92), Shorelands and Tidal Wetlands. The proposed activities and operation is not expected to yield adverse impact on coastal resources.</i></p>
<p>e. <i>Hazard protection.</i> The proposed use shall not have a detrimental impact upon the use or peaceable enjoyment of abutting or nearby properties as a result of vibrations, fumes, odor, dust, erosion, sedimentation, flooding, fire, noise, glare, hazardous material use, storage, transportation or disposal, or similar conditions.</p>	<p><i>No hazardous materials will be stored on-site. No vibrations, fumes, odor, dust, erosion, sedimentation, flooding, fire, or glare is expected. Limited noise will be generated during construction. Traffic associated with the operation will increase slightly over the existing conditions. The applicant has received a favorable review by CT DEEP's Land &amp; Water Resources Division.</i></p>
<p>f. <i>Historic preservation.</i></p>	<p><i>The proposal does include the rehabilitation and relocation of two existing historic structures. The project has already received a conditional Certificate of Appropriateness from the City's Historic District Commission.</i></p>

<p>g. <i>Design and architectural compatibility.</i> The operational and physical characteristics of the special permit shall be compatible with the surrounding area and the neighborhood in which it is proposed. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access, and circulation, building style and height, bulk scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors.</p>	<p><i>The project team has spent significant time engaging both the Historic District Commission and surrounding neighbors to study the design and architectural compatibility of the proposed activities. The study and resulting architectural designs are in keeping with the historic Quinnipiac River District as well as the environmental conditions of the site. As stated above the project did receive a conditional Certificate of Appropriateness from the City's Historic District Commission. The project is located with a FEMA Flood Zone AE with a base flood elevation of 12'. Both the proposed Oyster Hatchery and House have first floors below the base flood elevation. The design of the Oyster Hatchery and Oyster House includes wet flood proofing of the lower levels up to elevation 14.5'. The Oyster Hatchery includes a first floor elevation of 8.8' and the associated field of setting or oyster culturing tanks had a PAD foundation elevation of 8.4'. CT DEEP's Land &amp; Water Resources Division has deemed this project to meet the definition of a water dependent use with regard to the Connecticut Coastal Management Act and that no adverse impact will come to Coastal Resources. Upon referral by CT DEEP and our State National Flood Insurance Program Coordinator, FEMA has reviewed the location of the conditioning and culturing tanks of the Oyster Hatchery Building. FEMA's recommendation to render the proposed location and elevation of the conditioning and culturing tanks in the Oyster Hatchery Building as FEMA-compliant, was to seek a Flood Plain Variance from the City Plan Commission. The Variance would detail the proposed use as agriculture/aquaculture and thus under this use classification, allow the oyster culturing tanks and their proximity to the River to meet FEMA's definition of a functionally-dependent use. The Variance (accompanied by this special permit) will detail the use as agriculture/aquaculture and thus under this use classification, allow the oyster culturing tanks and their proximity to the River to meet FEMA's definition of a functionally dependent use.</i></p>
<p>h. <i>Property values.</i> The use and site design shall not have a detrimental effect on the property values in the surrounding area.</p>	<p><i>The site is in keeping with the goals and objectives of the Marine Commercial (BC) Zone and is not anticipated to have a detrimental effect on surrounding property values. The multi-million dollar redevelopment will substantially improve the existing site conditions.</i></p>

<p>i. <i>Traffic impact.</i> The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation on, adjacent or nearby the site. The Commission may require a traffic impact study be submitted to it by the applicant for any special permit use of land. The study shall consider traffic patterns and adequacy of proposed off-street parking and loading resulting from the proposed development.</p>	<p><i>The Site Plan depicts an inbound driveway on the north end of the site – to be reconfigured and widened – and an egress driveway at the south end of the site. The site has a proposed 23 parking spaces including 2 loading spaces and 1 ADA accessible space. It is estimated that the operation will be open Monday through Saturday from 6Am til 6PM with approximately 30 – 40 employees. The application did supply a traffic study which determined a conservative number of peak, commuter hour trips to be between 20 and 30 trips.</i></p>
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**CONDITIONS OF APPROVAL:**

The conditions of approval of the Special Permit under §64 and §42 of the New Haven Zoning Ordinance are as follows:

- 1. Special Permit must be filed on the land records of the City of New Haven before issuance of building permits. A digital copy of the recorded site plan shall be provided to City Plan staff (.pdf).**

**ADOPTED:**   September 22, 2021  
              Leslie Radcliffe  
              Chair

**ATTEST:**   
Aicha Woods  
Executive Director, City Plan Department