

# ***Planning and Zoning Commission City of Derby***

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec  
David J. Rogers  
Richard A. Stankye  
David Barboza II  
Albert Misiewicz  
Glenn H. Stevens  
Raul Sanchez (Alternate)  
Maryanne DeTullio, Clerk

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, April 20, 2010 at 7:00 p.m. in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:00 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Albert Misiewicz, David Barboza, David Rogers and Raul Sanchez. Also present were Atty. Joseph Coppola, Ryan McEvoy, Milone & MacBroom and Maryanne DeTullio, Clerk.

## Additions, Deletions, Corrections to Agenda

Chm. Estwan stated that Item 9a Public Hearing for Sprint Nextel for 137 Derby Avenue that application was withdrawn and a new application will be received this evening. Also Item 10d under New Business will be removed from the agenda.

## Correspondence – None

Chm. Estwan stated that the letter from DEP was referred to the City Engineer.

## Public Portion

There was no one from the public wishing to speak.

## Approval of Minutes

A motion to approve the minutes of the 03/16/10 meeting was made by Mr. Rogers and seconded by Mr. Misiewicz. Mr. Rogers noted that he did not abstain from voting on the approval of the February meeting minutes. The motion was carried unanimously.

## Acceptance of Applications

Mr. Misiewicz moved to accept an application for CDD approval from Robert Chappell for 17 Elizabeth Street for use as a recording studio. The motion was seconded by Mr. Rogers and carried unanimously.

Mr. Rogers moved to accept and schedule for public hearing an application from Belleview Homes L.L.C. for change of zone from I-C/R-3 to R-3 for property on Belleview Drive, Map 1, Block 3, Lot 2 and Map 2, Block 5, Lot 14. The motion was seconded by Mr. Sanchez and carried unanimously.

Mr. Misiewicz moved to accept and schedule for public hearing an application from Sprint Nextel Corporation for 137 Derby Avenue for modification of existing telecommunications installation. The motion was seconded by Mr. Rogers and carried unanimously.

### Public Hearings

(a) Application from Sprint Nextel Corporation for modification to special exception for existing telecommunications installation at 137 Derby Avenue (Application #2010-03-16-01).

This application has been withdrawn.

### New Business

(a) Application from Sprint Nextel Corporation for modifications to special exception to modify existing telecommunications installation at 134 Roosevelt Drive. (Application #2010-03-16-02).

Atty. Jennifer Herz representing the application stated that they are seeking a modification to their special exception. They are currently upgrading their network and will be removing and replacing six antennas on the smokestack. They will be adding two dishes and relocating an equipment cabinet. The application complies with all telecommunications regulations. She stated that they are also seeking a waiver of the A-2 survey requirement since this is an existing site and there will be no ground broken. She also stated that the City Engineer had no issue with that. Mr. McEvoy stated that everything conforms to zoning regulations. Mr. Estwan read the comment letter from Milone and MacBroom into the record (copy attached).

Mr. Estwan moved that pursuant to Section 195-27, the Derby Planning & Zoning Commission finds that the application and supporting documentation as presented is in accordance with Section 195-27.

Therefore, following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Modification to the Special Exception for Sprint Nextel Corporation on a property shown on Derby Assessor's Map 9-4, Lot 1 subject to the following conditions:

The approval shall be based upon the following documents submitted in support of this application:

1. Cover Letter, dated February 18, 2010.

2. "Application for Special Exception Use and/or Site Plan Approval", dated February 18, 2010.
3. Plans entitled "Sprint, CT-NHN0078/CT33XC609, 134 Roosevelt Drive, Derby, CT 06418", prepared by CHA, dated February 12, 2010 with the following attached drawings:
  - a. "Lease Exhibit, Sheet 1 of 2", drawn at varying scales
  - b. "Lease Exhibit, Sheet 2 of 2", drawn at no scale
4. Special Exception for the existing antennas from the Derby Land Records.
5. Statement of Use.
6. Radio Frequency narrative, coverage maps, and Federal Communications Commission Compliance Letter.
7. Product Specifications
8. Power Density Report
9. Site Agreement
10. Federal Communications Commission License
11. Photosimulations

With the following stipulated conditions:

1. The Special Exception approval shall not be effective until it is filed on the Derby Land Records along with any conditions in accordance with the General Statutes of the State of Connecticut.
2. That the applicant is granted a waiver of Section 195-33 of the Zoning Regulations requiring a Class A-2 Survey for the final site plan.
3. That the proposed panel antenna shall not exceed five feet in height per Section 195-27 F.C.
4. Subsequent to the initial operation of an updated wireless telecommunications antenna, the owner of such facility shall conduct an actual measurement of the electromagnetic emissions and submit a report prepared by a licensed Radio Frequency engineer to the Zoning Enforcement Officer. This report shall be submitted on a frequent basis not to exceed one per calendar year. When there is more than one source of electromagnetic emissions at a location, the above mentioned report should measure the cumulative emissions from all sources.
5. If the wireless telecommunication antenna is not in use for 12 consecutive months, it shall be removed by the service facility owner. This removal shall occur within 90 days of the end of such 12-month period.
6. The approval of an application for modification to the special permit shall be void and of no effect unless installation of the antenna commences within one year from the date of the approval granted by the Commission. The Commission may grant up to two six-month extensions of this period upon written request by the applicant. The Commission shall

withhold approval of any or all extensions unless the development plan is brought into conformance with any relevant zoning regulations, which have been amended subsequent to the original approval and if the applicant fails to provide adequate evidence that construction is able to begin within the extended time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing.

7. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.

The motion was seconded by Mr. Barboza and carried unanimously.

(b) Application from Chris Barretta and Michael Klein for CDD approval for 23 Factory Street for use as a warehouse and miter wood molding and retail space (Application #2010-03-16-02)

Michael Klein was present and stated that they are planning on opening up the site to almost the same use as previously. The front building will be for the assembling and miter of frames and they would also have a retail showroom. They are not changing anything or adding anything on the site. They will be cleaning it up. They do not anticipate a lot of traffic and the traffic patterns and parking will be the same as before. Chm. Estwan read the Milone and MacBroom comment letter into the record. The hours of operation will be from 8:00 a.m. to 6:00 p.m. Chm. Estwan also pointed out that it will be a re-use of existing buildings.

A motion to approve the application was made by M r. Misiewicz, seconded by Mr. Barboza and carried unanimously.

(c) Application from A. Winslow Quality Landscaping for site plan approval for property on Water Street for use of landscaping business. (Application #2010-03-16-04).

Mr. Barboza recused himself from hearing this matter. John Rak was present for the applicant and stated that the site is currently vacant and they will be renting the rear portion of the building for their landscaping business. The hours of operation would be from 7:00 a.m. to 4:30 p.m. Monday through Friday and possible a half day on Saturday. There would be six employees. Chm. Estwan read the Milone and MacBroom comment letter into the record.

Mr. McEvoy stated that he informed the owner of the parcel that in two locations they do not show the block walls around the bind. Ted Milne stated that they use mafia blocks for the binds. The landscape materials will be for the use of their business and possible sale to the public. Mr. McEvoy stated that there is no information on the current septic system and he requested that they contact the Health Department for approval for the use. Mr. McEvoy stated that Fred Columbo, Chairman of the Inland Wetlands Agency reviewed the application and plans and felt comfortable that the proposed activities are far enough from the wetlands that Wetlands approval is not necessary. Chm. Estwan read a letter dated 4/20/10 from Fred Columbo, Chairman of Inland Wetlands Agency stating that a determination was made that no Wetlands application is necessary. The site currently is in a low area and drains by a culvert

that runs under Route 8. Ongoing efforts have been made to clean out the pipe and have the water flow more freely.

Mr. Rogers moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Site Plan Application for A. Winslow Quality Landscaping on property shown on Derby Assessors Map 8-5, Lots 170, 171 subject to the following conditions:

The approval shall be based upon the following documents submitted in support of this application:

1. "Statement of Use, A Winslow Quality Landscaping, Water Street, Derby, CT".
2. Plan entitled "Lease Line Map, Prepared for A. Winslow Quality Landscaping, Water Street, Derby, Connecticut", scale 1"=20', dated February 12, 2010, prepared by Nowakowski, O'Bymachow & Kane Associates.
3. Plan entitled "Map of Property, Prepared for Derby Water Street, LLC, Water Street, Derby, Connecticut, Scale 1"=60', dated February 18, 2010, prepared by Nowakowski, O'Bymachow & Kane Associates.

With the following stipulated conditions:

1. The applicant shall provide a plant list and planting schedule for landscaped areas.
2. The applicant shall obtain the approval from the Naugatuck Valley Health Department for the use of the existing septic area prior to the issuance of a certificate of occupancy.
3. The applicant shall provide a revised plan depicting the location of sediment and erosion controls subject to final review and approval by the Zoning Enforcement Officer and City Engineer. If deemed necessary, the Zoning Enforcement Officer and/or City Engineer shall have the authority to direct the applicant to provide permanent control measures to prevent inundation of product storage areas during larger storm events.
4. Applicant shall furnish the City with an Improvement Location Survey of the property depicting the completed site including all site features including the proposed changes.
5. All handicapped parking shall be provided in accordance with the CT State Building Code.
6. All lighting shall comply with the City of Derby Zoning regulations.
7. A performance bond in an amount and form acceptable to the City Engineer and Corporation Counsel shall be posted prior to any construction activities associated with the site. The amount of the bond shall cover the following improvements:
  - a. Improvement Location Survey.
  - b. Fencing/block walls and buffer landscaping

8. Any modification to the above referenced drawings shall be submitted to the Planning & Zoning Commission staff for review.

The motion was seconded by Mr. Misiewicz and carried unanimously.

Old Business

(a) Update on Redevelopment Zone

Atty. Coppola stated that the developer has been on site and they are doing some engineering and survey work. They should have some idea in June if they are interested and what type of project it will be.

(b) Update on Enforcement Issues

Atty. Coppola stated that they have been very active in dealing with enforcement issues and things are moving along.

13. Payment of Bills

A motion to pay all bills was made by Mr. Barboza, seconded by Mr. Sanchez and carried unanimously.

A motion to adjourn was made by Mr. Barboza, seconded by Mr. Misiewicz and carried unanimously. The meeting was adjourned at 7:35p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

*These minutes are subject to the Commission's approval at their next scheduled meeting.*

***Aquifer Protection Agency  
(Planning and Zoning Commission)  
City of Derby***

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

Richard A. Stankye

David Barboza II

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez (Alternate)

Maryanne DeTullio, Clerk

The regular meeting of the Aquifer Protection Agency of the City of Derby was held on Tuesday, April 20, 2010 immediately following the Planning & Zoning Commission meeting, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:35 p.m. by Acting Chm. David Rogers. Present were David Barboza, Albert Misiewicz, David Rogers and Raul Sanchez. Also present were Atty. Joseph Coppola, Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

None.

Correspondence

None

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

A motion to approve the minutes of the 03/16/10 meeting was made by Mr. Barboza, seconded by Mr. Sanchez and carried unanimously.

Acceptance of Applications

There were no new applications to accept.

A motion to adjourn was made by Mr. Barboza, seconded by Mr. Misiewicz and carried unanimously. The meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

*These minutes are subject to the Agency's approval at their next scheduled meeting.*