

# ***0Planning and Zoning Commission City of Derby***

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

Richard A. Stankye

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez

Anthony Szewczyk, Alt.

Maryanne DeTullio, Clerk

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, February 21, 2012 at 7:00 p.m. in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:10 p.m. by Acting Chairman Steve Jalowiec. Present were Steve Jalowiec, Albert Misiewicz, Richard Stankye, Raul Sanchez, David Rogers and Anthony Szewczyk. Also present were Attorney Joseph Coppola, Corporation Counsel, Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

## Additions, Deletions, Corrections to Agenda

Mr. Jalowiec stated that a written request was received from Atty. Dominick Thomas on behalf of O'Riordan Migani Architects for an informal discussion on 235 Roosevelt Drive. Mr. Rogers moved to add as Item 10d Informal Discussion – 235 Roosevelt Drive. The motion was seconded by Mr. Stankye and carried unanimously.

## Correspondence

Mr. Jalowiec read a letter dated 2/13/12 from FEMA regarding upcoming Risk Mapping, Assessment and Planning Discovery Meetings for the Quinnipiac Watershed.

## Public Portion

There was no one from the public wishing to speak.

## Approval of Minutes

A motion to approve the minutes of the 01/17/12 meeting was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously.

## Acceptance of Applications

Mr. Rogers moved to accept an application for site plan approval from Steve Manillo for 300 Roosevelt Drive for use as a retail auction house. The motion was seconded by Mr. Stankye and carried unanimously.

Mr. Stankye moved to accept and schedule for public hearing at the March meeting an application from BAMF Homes LTD for 5 lot subdivision at 16 John Street. The motion was

seconded by Mr. Misiewicz and carried unanimously. Atty. Thomas presented notices that he sent out regarding the filing of the subdivision application.

Mr. Rogers moved to accept an application for CDD approval from Art Celaj for 35 Minerva Street for use of storage garage as a church. The motion was seconded by Mr. Stankye and carried unanimously.

Mr. Stankye moved to accept an application for CDD approval from Disability Resource Networking for 230 Caroline Street for a disability training for life skills, vocational, recreation center. The motion was seconded by Mr. Szewczyk and carried unanimously.

### Public Hearing

(a) Application for Modification of Special Exception Use from White Hills Landscaping & Tree Service for 12 & 14 New Haven Avenue (Application #2011-12-20-01). Continued from 01/17/12.

Attorney Thomas was present for the applicant. Mr. Jalowiec stated that a modified statement of use and site plan were received from the applicant as well as a letter from the Fire Marshal dated 2/21/12. Mr. Jalowiec read the letter into the record (copy attached).

Atty. Thomas stated that in response to the public hearing they revised the statement of use to specify that wood splitting would be done in the rear of the building. The equipment is gas powered and would have to be operated with the doors opened. The bay doors in the rear are 16' and would have to be opened. The rear of the property would be screened by a tarpaulin and the split wood would be loaded on trucks and delivered to customers only on Saturdays between the hours of 9:00 a.m. and 3:00 p.m. He stated that no wood would be sold directly to customers at the site and no customers would be coming to the site. Atty. Thomas stated that he revised the site plan that he drew up. He stated that nothing will be changed on the site; he is identifying on the site the location for storage that would be covered by a tarpaulin. He stated that this is the best location and the Fire Marshal saw no problem with it being stored there. It would be shielded by the retainer wall, the garage and the building. Atty. Thomas also stated that with regard to the comment from the city engineer about the possibility of debris going into the catchbasin his client would be willing to comply with inserts in whichever catchbasins needed them.

Mr. Jalowiec asked for any public comment on the application.

Mrs. DiCamillo, 29 Gilbert Street stated that this is a very noisy operation and she had complained about it. They did move it but she is still opposed to the application.

There was no further public comment on the application.

Mr. Jalowiec stated that he did not have the original statement of use but asked about the hours of operation for the splitting operation. Atty. Thomas stated that the original statement of use indicated that the splitting would be outside but due to response it will be done inside. The

splitter is only a low powered motor. He stated that the only thing happening will be the storage of the wood outside. Mr. Jalowiec asked about adding the inserts in the catchbasins and Atty. Thomas stated that they will do that. He stated that the storage of the wood will be up against the rear of the building and retaining wall. The closest building is a garage.

Mrs. DiCamillo, 29 Gilbert Street stated that wood from the pile falls onto her property and this is an eyesore. The wood pile would face her property.

Atty. Thomas stated that the wood would have to be covered with a tarpaulin according to the regulations.

Mr. Szewczyk asked if there was going to be any sawing of wood and Atty. Thomas stated that only splitting. He stated that it will be done inside and it is really not noisy just a low hum. This is a commercial district.

A motion to close the public hearing was made by Mr. Stankye, seconded by Mr. Rogers and carried unanimously.

(b) Application for Special Exception Use and Site Plan Approval from Walgreen Eastern Co., Inc. for retail/pharmacy for 60 Pershing Drive (Application #2011-11-15-01) – Continued from January 17, 2012.

John Mancini, BL Companies was present. Mr. Jalowiec stated that a letter was received from DLS Traffic Engineers dated 01/30/12 addressed to Attorney Eugene Micci, review of proposed retail Red Raider Plaza. This letter was done by the traffic engineer hired by Atty. Micci for his client and Mr. Mancini stated that they did receive a copy of the letter and have responded.

Mr. Jalowiec stated that a letter was received from BLC Companies dated 1/3/12 to the State Traffic Commission transmitting the revised plans and responses to comments created by the State Traffic Commission. Mr. Mancini stated that subsequent to that letter they met with the State Traffic Commission. Mr. Jalowiec read into the record a letter from the City of Ansonia Planning & Zoning Commission dated 1/4/12 (copy attached). Mr. Jalowiec stated that a letter dated 1/9/12 was received from Atty. Micci representing 49 Pershing Drive requesting that the January public hearing be continued. Mr. Jalowiec noted that the letter is being read into the record after the January meeting. Mr. Jalowiec stated that a letter was received from Atty. Micci dated 1/11/12 requesting a copy of the plans from BL Companies. Atty. Micci indicated that they have received copies of the plans. Mr. Jalowiec stated that a letter dated 1/27/12 to Inland Wetlands Agency was received regarding comments by Inland Wetlands. Mr. Ryan acknowledged that the letter is in the Inland Wetlands file.

Mr. Jalowiec stated that a copy of a letter from BL Companies to Atty. Eugene Micci dated 2/17/12 regarding this project. Atty. Micci stated that he did receive that letter.

Mr. Mancini stated that the proposal is to reduce the overall building area that exists currently by a little over 32,000 s.f. They are not increasing the amount of the building. They are reducing traffic or not increasing traffic. They are increasing by 34 parking spaces because they are opening the front for front field parking to make it more useable for the businesses.

He stated that there is parking on the site that is leased from the State and the State could call on getting the land back and then the parking would not be available. He stated that they maintaining a right in/right out access onto Division Street and enhances it a bit so that it is pulled off the railroad tracks a little. Mr. Mancini stated that they are maintaining and improving a bit the full access signalized drive. They are also maintaining access at the curb cut that they have on Pershing Drive that is not signalized.

Mr. Mancini stated that well over a year ago they had an informal meeting with City staff and talked about redeveloping this parcel and the intersection that exists between the two properties. He stated that they knew that they needed to prepare a master plan that showed how these driveways could come together as one. He stated that they also met with the State regarding this and told them that they would be coming to them to revise the State traffic certificate for this site. He showed a plan on how this would be reconfigured and become a four way intersection, extend the storage going southbound and create a right turn lane and the State agreed that they would want that. He stated that they submitted a master plan and met with the new owners of the adjacent site. He stated that it is everyone's intention to do it but they do not own a small piece of property. He stated that they wanted to put on the record a plan on how they would address the driveway and have no problem with the plan being approved. He stated that they want to clean up this development. He stated that right now they have to do what they control but have no problem making it a condition of approval and then when the adjacent owners are ready to go forward with their plans it will be done. He stated that the intention was to clean up all of this development from where to get off the highway all the way to Division Street. He stated that right now they have to do what they control.

He stated that he wanted to address some of the comments that Atty. Micci had his consultants look at. He stated that some comments are germane to the driveway. He stated that they received a letter from Milone & MacBroom today and the one outstanding comment has to do with this driveway. Mr. Mancini stated that they met with the State of Connecticut and discussed their concerns about the driveway. He stated that their preference was to leave it as it is today; a full access driveway. He stated that they do not believe that they are generating any new traffic and have parking that is close to what is there today and have 34 new spaces. However, the DOT was concerned about two primary movements. He stated that at first they had a plan that going southbound on Pershing Drive they had created a painted out little left turn pocket. The DOT would not allow them to take that space for left turn vehicles and they did not want to give up that area. When that was taken away from their plans they would then have to make a left from one of the two southbound through lanes and the State was concerned that it might be difficult for someone to make a left turn. They were also concerned about some making a left turn out because they would have to go across two north lanes. Mr. Mancini then submitted a plan that was consistent with what was discussed with DOT. Mr. Mancini stated that one shows it with a truck turning movement on it and one without. He stated that in lieu of a full access driveway a right in/right out driveway as described in the response to Atty. Micci would be put there and it would be a raised up crowned concrete island so that a truck could make it out. That is really the only change. Mr. Mancini stated that this is a State road and they need a STC permit. This Commission has to approve the plans before they can get STC approval.

He stated that another concern was that the driveway through function of the pharmacy had a sea of pavement and wasn't really controlled. He stated that they added an island and defined that channelized area in the full set of plans. Mr. Mancini stated that they also defined the loading space for the retail that is being proposed and it needs to be 12' wide which they can accommodate.

Mr. Mancini stated that there was also a comment about the traffic operations at Division and Pershing and there is no right of way left to do anything there. The State of Connecticut has their road on our property. It is very tight and there is no way to anything else there. He stated that after receiving approval from this Commission and the STC they will meet with the neighbor and either because they are going to come with a plan for the development of their site or not; they are going to move forward with implementing the four way intersection driveway.

Fred Greenberg, BLCompanies stated that they ever have to give up the leased property in the rear the circulation around the front is very important. They analyzed the driveway and it is difficult to do anything not knowing what the development plan is for the adjacent site.

The Commission took a recess at 8:10 p.m. and the meeting was reconvened at 8:20 p.m.

Mr. Mancini stated that regarding the driveway it will not be final until after meeting with the STC.

Mr. Ryan stated that they have updated their original comment letter with a letter dated 2/21/12. He read the letter into the record and stated that all previous comments have been addressed. He stated that the landscaping plan has been supplemented and the parking plan has been changed to meet the requirements. He stated that the current plan is deficient without the DOT parking spaces. The applicant has agreed to have a few landscape islands in the long parking aisles. He stated that the applicant has asked to be able to take those landscaped islands and make them into spaces if someday the DOT revokes the lease of the spaces. Mr. Ryan stated that they submitted updated hydrology reports and he was satisfied with those. He stated that their only concern with the site plan is about the south driveway into the site. The new parking lot on the west side has a very short left turn into the parking lot and the concern is that it could cause some back ups on Pershing Drive.

Mr. Szewczyk asked about the sketch for the driveway and Mr. Mancini stated that the State will give the final approval to the driveway.

Mr. Sanchez was concerned that even with signage a right in/right out driveway will not work. Mr. Mancini stated that one of the major improvements to the site is to finally get full access and functionality to the light which is the safest place to go in and out.

Mr. Jalowiec asked for any public comment on the application.

Carmen DiCenso, 7 Jeanette Drive, Third Ward Alderman, stated that there are a lot of concerns about Pershing Drive access. He stated that he was glad to see that both parties have spoken and are willing to discuss the four-way intersection. There are still businesses open there and they need access.

Attorney Eugene D. Micci, 10 Elizabeth representing 49 Pershing Drive LLC stated that his client has never been opposed to the application on principal. They have concerns about traffic patterns with the driveway on the southside and the impact to their center. He stated that the idea to convert to a four way driveway is very important.

Mr. Jalowiec asked if the plans were submitted to the Fire Marshal for review. Mr. Mancini stated that he will follow up on that.

David Spiers, DLS Companies, traffic engineer stated that a lot of his concerns have already been addressed. He stated that he agrees with the DOT on the right in/right out and that would be a better plan. He stated that if there are deliveries in the front it could result in a back up of cars and concerned with that. He felt that converting from a five way intersection to a four way should be a condition of approval.

Mayor Tony Staffieri stated that Pershing Drive is doing very well and Walgreens is willing to work with their neighbor to work out a solution to the driveway situation. He stated that he was very glad to see that. He felt that they will do a good job.

Mario Barone, Italian Pavilion stated that he would like to see improvements to the driveway entrance.

Rocco Cingari, 49 Pershing Drive LLC stated that he came before the Commission several years ago and was happy that they complied with the wishes of the Commission. His concern was that traffic from this development will hold up their traffic.

Mr. Jalowiec stated that the Commission needs to have a comment letter from the Fire Marshal.

Mr. Jalowiec also was concerned about the southern driveway. Mr. Mancini stated that they will put all stop signs in and also do not block intersection signs. He stated that the only reason it is not done is that they do not own a small piece of the property that is needed to do that.

Mr Mancini stated that they will grant an extension so that the public hearing can be continued and submitted that in writing.

A motion to continue the public hearing to the April meeting was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously.

New Business

(a Discussion and possible action - Application for Modification of Special Exception from White Hills Landscaping & Tree Service for 12 & 14 New Haven Avenue (Application #2011-12-20-01).

Mr. Misiewicz stated that the neighbor was hearing sawing and the applicant indicated that there is not sawing. Mr. Szewczyk stated that as long as the noise level complies with the requirements it should not be an issue. Mr. Jalowiec stated that it is not a permitted use and abuts a residential zone. He did not know if there were adequate buffers or screening being provided. Mr. Rogers stated that he was not in favor of this and felt it was not an appropriate place for this type of operation.

Mr. Jalowiec moved that the following plans and supporting documentation were submitted in support of this application:

1. "Statement of Use – 12014 New Haven Avenue, Derby, CT".
2. "Property and topographic Survey – 12-14 New Haven Avenue", prepared by Rose-Tiso & Co., Inc., dated Aug. 28, 2007, revised to Dec. 16, 2008 and drawn at a scale of 1"=10', (Manually altered and received by the Derby Planning and Zoning Commission on February 21, 2012).
3. Site Photos.
4. Comment Letter from Milone and MacBRoom, Inc., dated January 2<sup>nd</sup>, 2012.
5. Letter from Derby Fire Marshal Phil Hawks dated 2/21/12.

Based on the reference documents and testimony from the applicant, the public and the Commission, the Derby Planning & Zoning Commission hereby find the following:

1. The proposed special exception use is not in harmony with the appropriate and orderly development of the neighborhood and will be detrimental to established properties in the area and therefore does not comply with Section 195-45.A.(2) of the Derby Zoning Regulations.
2. The applicant has not provided any additional screening or buffering from the proposed use to adjacent occupied residential properties, proposes an increase in the intensity of the use of the site immediately adjacent to residential property, and it therefore does not comply with the intent of Section 195-25.E.(1) of the Derby Zoning Regulations.

Therefore, based on the findings listed above, the Derby Planning & Zoning Commission hereby denies the Application for Special Exception for White Hills Landscaping & Tree Service, LLC on property shown on Derby Assessor's Map 7-6, Lots 108A & 109.

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

(b) Discussion and possible action - Application for Special Exception Use and Site Plan Approval from Walgreen Eastern Co.,Inc. for retail/pharmacy at 60 Pershing Drive (Application #2011-11-15-01).

Mr. Jalowiec stated that the public hearing on this application as been continued to the April meeting.

(c) Request for Bond Release from Prestige Builders – David Humphreys Subdivision – Frank Gates Lane.

Mr. Jalowiec stated that a letter was received from Milone and MacBroom dated 2/21/12 recommencing release of the bond. A motion to approve the release of the bond from Prestige Builders for David Humphreys Subdivision, Frank Gates Lane was made by Mr. Jalowiec, seconded by Mr. Stankye and carried unanimously.

(d) Informal Discussion, 235 Roosevelt Drive – O’Riordan Migani Architects.

Attorney Dominick Thomas and Joe Migani were present. Atty. Thomas stated that an informal meeting was held with staff and Mr. Migani regarding his interest in acquiring the property at 235 Roosevelt Drive for an age restricted development. He stated that some form of a zone change would be needed that would be appropriate for this site.

Joe Migani, O’Riordan Migani Architects stated that he has a letter of intent to purchase the property based on getting zoning approvals. He presented photos of the property and made a visual presentation. He stated that he would like to have 35 one bedroom units with three retail stores. The parking on the site exceeds the requirements by approximately 25%. The development would have a community center and other amenities. There is also the potential for a courtyard. Mr. Jalowiec asked what kind of retail development and Mr. Migani stated that it would be convenience retail. Atty. Thomas stated that the building is in very poor condition and it would be completely renovated. Mr. Szewczyk stated that he liked the idea of renovating the building and this type of development would not have any strain on the school system. Mr. Migani stated that it is a long term project and after receiving zoning approval he would need to secure funding.

Mr.Jalowiec stated that several years ago other developers had sought approval for this site. There was some concerns from the industrial neighbors as well as the residents in the area. He felt that they should work with staff to see what the best course of action would be.

#### Old Business:

(a) Update on Redevelopment Zone.

Atty. Coppola stated that a meeting was held and the contract was discussed. There are time lines for site acquisition and construction. They are working on a plan and it needs to be formally submitted.

Executive Session

(a) Update on Enforcement issues; discussion of pending litigation.

A motion to go into Executive Session to discuss enforcement issues and pending litigation and have Atty. Coppola and Ryan McEvoy in attendance was made by Mr. Szewczky, seconded by Mr. Stankye and carried unanimously. The Commission went into executive session at 9:30 p.m. A motion to return to the regular meeting at 9:35 p.m. as made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously.

Payment of Bills

Mr. Stankye moved that the following bills from Milone and MacBroom be paid. – Invoice #58893, #58894, #58895 and, #58896 The motion was seconded by Mr. Misiewicz and carried unanimously.

A motion to adjourn was made by Mr. Rogers, seconded by Mr. Szewczky and carried unanimously. The meeting was adjourned at 9:40 p.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

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez

Anthony Szewczyk (Alternate)

Maryanne DeTullio, Clerk

The regular meeting of the Aquifer Protection Agency was held on Tuesday, February 21, 2012, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 9:40 p.m. by Acting Chairman Steve Jalowiec. Present were Albert Misiewicz, Steven Jalowiec, David Rogers, Richard Stankye, Raul Sanchez and Anthony Szewczyk. Also present were Attorney Joseph Coppola, Corporation Counsel, Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

There were no additions, deletions or corrections to the agenda.

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 01/17/12 meeting was made by Mr. Stankye, seconded by Mr. Szewczyk and carried unanimously.

Acceptance of Applications

There were no new applications to accept.

A motion to adjourn was made by Mr. Stankye, seconded by Mr. Szewczyk and carried unanimously. The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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