

***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, March 20, 2012, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 10:45 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Steve Jalowiec, Albert Misiewicz, Richard Stankye, Raul Sanchez, Glenn Stevens and Anthony Szewczyk. Also present were Attorney Joseph Coppola, Corporation Counsel, Mike Joyce, 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 02/21/12 meeting was made by Mr. Stankye, seconded by Mr. Jalowiec 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. Stevens and carried unanimously. The meeting was adjourned at 10:50 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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

# ***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, Alt.

Maryanne DeTullio, Clerk

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, March 20, 2012 at 7:00 p.m. in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:05 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Steve Jalowiec, Albert Misiewicz, Richard Stankye, Raul Sanchez, Glenn Stevens and Anthony Szewczyk. Also present were Attorney Joseph Coppola, Corporation Counsel, Mike Joyce, Milone and MacBroom and Maryanne DeTullio, Clerk.

## Additions, Deletions, Corrections to Agenda

Mr. Stevens moved to add as Item #10g Bond Reduction Request from Lowe's. The motion was seconded by Mr. Stankye and carried unanimously.

## Correspondence

Mr. Estwan stated that no correspondence had been received.

## Public Portion

Michael Walker, owner of 21-25-29 Minerva Street was concerned that if the application for 35 Minerva Street is approved there may be restrictions on what he could rent his property for because of the close proximity to a church. He also felt that there would be a parking issue with that application. Mr. Joyce stated that will be discussed during the review.

## Approval of Minutes

A motion to approve the minutes of the 02/21/12 meeting was made by Mr. Stankye, seconded by Mr. Jalowiec and carried unanimously with Mr. Stevens and Mr. Estwan abstaining.

## Acceptance of Applications

Mr. Jalowiec moved to accept an application for CDD approval from Angelo Giordano for 59-65 Elizabeth Street for renovations for 14 apartments. The commercial space of the first floor will remain as commercial and the second floor will have the apartments. It will be a mixed use development. The motion was seconded by Mr. Stevens and carried unanimously.

(a) 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 February 21, 2012.

John Mancini, BL Companies was present. Mr. Mancini stated that at last month's public hearing the remaining items that they needed were a letter from the Fire Marshal which they received. He stated that the only comment was that they would like to see some fire lane striping and they will do that. He stated that at that time one of the things that was asked was a continuation of the discussion with all parties to get the driveways into a four lane intersection. He stated that he felt that they have addressed all the comments in the Milone and MacBroom review letter. He stated that the DOT wanted a little more information on drainage and also the approval letter from this Board. He stated that comments were made to continue to work with the abutting property owner about coming up with an agreement. He stated that they have been working very diligently with their neighbors and have met and exchanged data and are putting the finishing touches on the language of the agreement . And also coming up with an equitable way to share the costs. Mr. Mancini stated that this project will be a reduction of approximately 33,0000 s.f. of what is there now. He stated that they are making a north/south connection on the site that comes along the front of the building. There will be more equal distribution of traffic throughout the site. He stated that it is their goal to do the driveway once but what they are proposing before the combined driveway will work. Mr. Mancini stated that they are close to the agreement but it is not finalized at this point. He stated that they have to get the STC permit after this Board's approval. He stated that they have addressed a lot of the tenants concerns and that is almost done.

Mr. Joyce stated that a copy of a letter BL Companies to STC dated February 27, 2012 was received. Mr. Mancini stated that they had it resolved but not submitted to the State. He stated that this pertains to the northmost driveway and it has been made as restrictive as possible so that people do not take left turns. Mr. Joyce stated that it is a State road but the Commission can offer comments to the STC regarding this project. He stated that while jurisdiction lands with STC for the driveways some of the area is very close to Pershing Drive. He stated that they would like to see staff have the authority as the plan evolves if there are any changes for public safety, they can monitor the situation. Mr. Mancini stated there is a lot of work involved in the work on the intersection and they are committed to having it done properly.

Mr. Estwan asked for any public comment on the application. Gerry Nocerino, Woodbridge, a partner in 98 Pershing LLC, abutting owner stated that they do not have an agreement at this time. We was concerned about the intersection and stated that they are willing to share a portion of the cost for the work but do not have an agreement and would feel more comfortable if they did.

Attorney Eugene Micci representing 49 Pershing LLC and Rocco Cingari stated that apparently there is no deal in principle and that causes great concern to his clients. He stated that they also have some concerns about traffic patterns as depicted on the plans. He stated that their traffic engineer David Spear will comment further on the traffic issues.

David Spear, DLS Traffic Engineers, Windsor, CT stated that he had some issues with the northerly driveway. He stated that there are going to have mountable curbs there. He stated that they are opposed to having a left turn for tractor trailer trucks. He stated that they will have to cross two lanes of traffic and they feel it would be better for the trucks to use the signalized driveway. He stated that they are recommending that they do not come out the northerly driveway. He stated that converting from a five lane to four lane intersection at the southerly driveway. He stated that they would like to have it as a condition of approval that the applicant participate in a redesign of that intersection.

Rocco Cingari, owner of the Shop Rite plaza stated that he is not opposed to this project but is concerned with his exit and making a left from the northerly driveway will be very dangerous.

Mr. Mancini stated that when they submitted the plan to the State they reran the truck pattern and only 80% of the island is raised and only a small tip is mountable. He also stated that what is not in the agreement is how the cost will be shared. He stated that they are committed to this being done.

Mr. Estwan stated that at the beginning of the review process the applicant submitted the idea of having a combined driveway. He stated that in order to address Mr. Cingari's position, when they developed that and did a spectacular job with the Shop Rite development, they owned all the property so there was more input than the Commission had with the applicant. He stated that on the other side we have an applicant with some buildings and land that has derogated over the years. We have two owners now who are committed to doing a great job. He stated that unfortunately this Commission does not have that type of control or say in this application. Mr. Estwan stated that the Commission could strongly suggest and want it to go that way, but we have to draw the line somewhere. He stated that everyone wants this including the City but we can only go so far.

Mr. Mancini stated that Walgreens has owned the property for several years and worked hard to make the site work.

David Spear stated that they are concerned with the northerly driveway. Their actual concern is with the trucks and they would recommend that they exist at the signalized driveway.

Mr. Joyce stated that there is a five lane intersection now and the Commission does have the ability to review the intersection again with the consolidation.

Mr. Mancini stated that at this time they have the right in/right out driveway as restrictive as possible. He stated that the large truck deliveries will not be happening every day. They have no problem reviewing it further.

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

(b) Application from BAMF Homes, LTD for 5 lot subdivision at 16 John Street (Application #2012-02-21-02).

Attorney Dominick Thomas was present for the applicant. He submitted the evidence of the certified mailings. He stated that this is a proposed five lot subdivision. He stated that the reason for the public hearing is because the regulations require it for flag lots. Atty. Thomas stated that he was going to address some of the comment in the Milone and MacBroom review letter pertaining to flag lots. He stated that one of the comments in the letter refers to separation. The regulations state that when you have two accessways that are combined to the next flag lot. He presented maps showing the property and stated that there were two parcels owned by the same person. He also stated that these are not flag lot. He stated that a flag lot has to be generally behind the front lot and these parcels never came before the Commission and therefore are not flag lots. He stated that the entire parcel was deeded to one person. He stated that the assessor's records show that the house at 29 John Street was built in 1979. He stated that there was a subdivision map simply recorded on the land records that was never signed by P&Z. He stated that it is the property after the house was built and the people did a property division and the assessor picked it up to be two lots. He stated that they are not flag lots. He stated that there is an issue of configuration and whether the two rear lots meet the term of flag lots. He also submitted copies of the plans showing the lot lines and how they are drawn. Atty. Thomas stated that another comment in the letter referred to whether one of them is an appropriate flag lot. He stated that the accessway to Lot 5 goes in front of Lot 4. He also submitted a packet including the regulation on flag lots and case law cites regarding this issue. He stated that the regulation on flag lot uses the word generally behind. He stated that based on an interpretation their lots are generally behind. He stated that they can show that these lots are appropriate and in harmony with the plan and comply with all bulk standards.

Jim Rotundo, engineer stated that this is a five lot single family home subdivision in the R-3 Zone. There are three front lots and two flag lots. The three front lots meet or exceed the 15,000 s.f. area and the two flag lots exceed 25,000 s.f. He stated that each flag lot is accessed by a 25' adjoining accessway out to John Street. There is a 20 foot landscaped buffer between the front lots and the flag lots. In addition, there will be a split rail fence along the wetlands to delineate the wetland boundaries. The lots will be serviced by sewer and water. Mr. Rotundo stated that they designed sub-surface detention systems on each of the lots to collect roof runoff. In addition there will be gravel infiltration trenches along with trench drains at the end of the driveways of Lots 2, 3, 4 and 5. These trenches and infiltration trenches will discharge into sub-surface detention chambers. The purpose for that was to minimize the flow of water from the driveways down to John Street. He stated that the system is designed to provide for zero increase of runoff for the 2 through 100 year storm events. He stated that they also designed a sedimentation and erosion control for the project conforming to the City of Derby regulations. He stated that he spoke with Ryan McEvoy about some of the technical comments in his letter and they are in agreement that those technical comments can be worked out. He stated that they are providing a landscaped buffer between the front lots and flag lots and Mr. McEvoy commented on extending that between Lot 2 and Lot 4 and they

discussed the location of that and it will be provided on the plan. He stated that one of the comments had to do with narrow lots on Lot 5. The regulation requires that they can angle it  
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so it will have the required width. Mr. Rotundo stated that they have submitted plans to WPCA to get their final sign off.

Mr. Estwan stated that he had a letter from the Fire Marshal which indicated his concern with the access to Lots 4 and 5. He stated that the driveway from John Street are only 11' wide and very long and winding. He stated that with driveways like these it would be very difficult to drive to the dwelling with an emergency vehicle (copy attached).

Atty. Thomas stated that he submitted a waiver. He stated that there is a provision for parks and recreation area. He stated that as part of their approval they are required to have a split rail fence. He stated that approximately 30% of the site is behind the split fence which is going to have to be labeled as wetlands. He stated that everything behind will be open space and he felt that would satisfy the open space language in the regulation.

Mr. Joyce went through the review letter and commented on the landscape buffers and how they are protecting the lots. He stated that they would like to see how those will be achieved. He also stated that a lot of information was submitted this evening that has to be reviewed. He also asked what efforts were made to exhaust all conventional subdivision layouts without the need for flag lots.

Mr. Rotundo stated that they looked at several layouts. The R-3 Zone requires 100' minimum width. He stated that the frontage along John Street is at 400' which would allow them four lots but the corner lot gets pushed down into an area that is wetlands. He stated that they received Wetlands approval for the house location as it is. He stated that the minimal lot area for these lots is 15,000 s.f. so this would result in long narrow lots going to the back and a large area of the remainder of the site being unusable. He stated that they looked at the flag lots and that allowed them to have three lots along John Street meeting the minimum width of 100 feet and being able to fit in two 25' accessways into two rear lots allowing them to utilize the whole site. He stated that they did look at one scenario with a driveway off of Sodom Lane to access a rear lot however along that property line there is the wetlands corridor. He stated that in looking at the different layouts they felt that this is the best use of the land.

Atty. Thomas stated that the subdivision was designed to address wetland concerns and designed to have the least environmental impacts. This is the best configuration for the standards given for special exception.

Mr. Joyce asked about the landscape buffer requirements. Mr. Rotundo stated that the landscape buffer as it is designed now on Lot 4 comes up to the access way into Lot 4. He stated that he spoke with Mr. McEvoy about locating that on Lot 4 on the back side of the accessway to Lot 2 which would buffer Lot 4 from Lot 2. He stated that could also propose a tree buffer along the rear of Lot 2 which will shield the accessway.

Mr. Joyce stated that it still raises the point that the flag lots are behind the front lots. Mr. Rotundo stated that the buffer between Lot 2 and Lot 4 would occur on the lot line which would be the property line of the rear of the accessway, which is the lot line for Lot 4.

Mr. Estwan stated that if you just look at the map behind Lot 2 is Lot 5 and behind Lot 5 is Lot 4. Mr. Joyce referred to the regulation regarding buffers for flag lots. Atty. Thomas stated that it states on any portion it shares with the front lot and that is what is done on the plans.

Mr. Stevens asked if a road with a cul-de-sac would solve the issues raised by the Fire Marshal. Mr. Joyce stated that they have to demonstrate why a flag lot development is better than a conventional use.

Mr. Stankye stated that they said that if a road is put in the City would have to maintain it, but the City does not have to accept it and it can stay a private road. He stated that the felt that they are trying to squeeze too many houses on a small piece of land with wetlands.

Mr. Estwan asked for any public comments on the application.

John Oraziotti, 56 Sodom Lane stated that they don't need to build five houses and a simple solution would be three houses. He felt that they were not taking into consideration the neighbors. There are drainage issues in this area and this will result in more drainage problems. The area cannot handle the water now. He also felt that there is a traffic problem in this area.

Mr. Oraziotti also read an e-mail from Neil Dorso, 50 Sodom Lane which stated that he is against this application. He stated that it does not fit the character of the neighborhood and would be too dense and also have negative traffic impacts.

Alice O'Doy, 26 John Street stated that her main concern was with the five houses. She felt that it is a safety issue in this area.

Rose Marie Davila, 57 Sodom Lane was concerned with drainage and safety issues.

Andre Vanchot, 65 Marshal Lane stated that this has always been a rural area and a lot of trees are being taken down. He was concerned about his loss of privacy.

Earl Robinson, 56 Belleview Drive stated that this is a treed wetlands area and he was concerned with the trees being cut down and the area being wide open.

Drew Perry, 27 John Street stated that there will be traffic issues with this development. He also stated that Lot 3 has a lot of ledge as does parts of Lot 5. He was also concerned with water and drainage issues. He felt that it was too dense.

Karen Kemmesies, 25 John Street stated that she also has concerns with traffic. She stated that John Street is a very tight road and five additional house would be outrageous. She also stated that she does not see show they can achieve zero increase in runoff. She asked the Commission to look at the ledge issues and traffic issues. She also had an issue with the waiver of the open space requirement. She asked that the public hearing be kept open.

Earl Robinson, 56 Belleview Drive stated that there is already a new house at the corner of John Street and another one proposed for that side.

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Mr. Estwan stated that one of the objectives of the Commission is to have regular lot shapes. He asked how much time was spent on trying to put in a small cul-de-sac and put in regular shaped lots and still conform to our regulations. He stated that it is an owner's right to develop their property within the means of the regulations within a town. He stated that it is the Commission's job is to make sure it is tastefully done and meets the regulations and the intent of the regulations. He stated that he would like to see the comments from Milone and MacBroom addressed as well as those by the Fire Marshal.

Atty. Thomas stated that the lots are not irregularly shaped. They are large size lots. There are wetlands on the site which serve as drainage areas and they will not be effected at all. He presented an aerial picture of the area and stated that the trees will remain. He also noted that a good portion of the forested area extends off of their property. He stated that there is an area that has debris that has to be cleaned out but no trees being cut down. He stated that there is a farm wall which stretches along the boundary and they have no intention of touching that.

Mr. Rotundo stated that there were some comments about the detention chambers being put in ledge. He stated that they did test pits on each of the lot s where they are putting in the chambers. He stated that there comments made during the Inland Wetlands hearing about the drainage onto John Street and in response to that they represented to them that they would put in some type of drainage measures at the end of the driveways. They have done that and it is shown on the plans. There will be trench drains across the driveways to try and minimize the amount of water going on to John Street. He also stated that Mr. McEvoy was there when they did the test pits.

Mr. Joyce stated that he will look at the drainage and also the layout of the lots.

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

### New Business

(a Discussion and possible action - Application for Modification of Special Exception from Walgreen Eastern Co., Inc. for retail/pharmacy at 60 Pershing Drive (Application #2011-15-01).

Mr. Estwan moved that pursuant to Section 195-48, the Derby Planning & Zoning Commission finds the following:

1. The application and supporting documentation as presented is in accordance with Sections 195-48 (subsections A through E).
2. The application proposes to demolish and renovate portions of the existing building on the parcel, and construct a new building. The existing building will be renovated to allow those existing businesses in the Red Raider Plaza to relocate on-site should they wish to do so.

3. The site plan improvements will drastically reduce the occurrence of stormwater ponding in the southernmost parking area and throughout the site with large infiltration storage areas.

The applicant's engineer has produced documentation demonstrating that there will be no increases in runoff and is therefore in compliance with the Derby Zoning Regulations.

4. The site plan improvements contain a detailed sediment and erosion control plan that is in compliance with the Derby Zoning Regulations.

5. The applicant has expressed a willingness to come to an agreement with the abutting property owner to the south to consolidate two driveway entrances into one that will improve the safety and function of the entire intersection. The Derby Planning and Zoning Commission are not in a position where it can require a property owner to enter into an agreement with an adjacent property owner when they already have an established signalized driveway on a State owned roadway. However, the Derby Planning and Zoning Commission strongly recommend that the State Traffic Commission use any authority they may have to require this intersection consolidation prior to the endorsement of changes within Pershing Drive (SR 727). The Derby Planning and Zoning Commission also strongly support any efforts which may lead to an agreement to allow for the consolidation of the driveways.

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 Special Exception for property shown on Derby Assessors Map 7-10 & 12, Lot 17, subject to the following conditions:

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

1. Derby Planning and Zoning Commission Application for Special Exception Use and Site Plan Approval.
2. Report entitled "Project Design Report, For the Proposed Walgreens Pharmacy, Located at: Pershing Drive and Division Street, Derby, Connecticut," dated November 1, 2011, revised January 27, 2012, prepared by BL Companies.
3. Report entitled "Traffic Impact Study, Proposed Retail Development, Pershing Drive at Division Street," dated February 2011, prepared by BL Companies.
4. Plans entitled "Walgreens Derby, CT, Site Redevelopment, Inland Wetland & Watercourse Commission Plans," dated June 1, 2011, revised to January 27, 2012 (unless otherwise noted) prepared by BL Companies, with the following plans attached:
  - a. "V-100, Alta/Land Title Survey," dated March 18, 2011 at a scale of 1"=40'
  - b. "C-100, Site Plan," at a scale of 1"=40'
  - c. "C-101, General Notes," not to scale
  - d. "C-110, Grading and Drainage Plan," at a scale of 1"=40'
  - e. "C-111, Site Utilities Plan," at a scale of 1"=40'
  - f. "C-112, Sedimentation and Erosion Control Plan," at a scale of 1"=40'

- g. "C-113, Sedimentation and Erosion Control Notes," not to scale
- h. "C-200, demolition Plan," at a scale of 1"=40'

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- i. "C-510, Civil Engineering Requirements and Detail Sheet," at varying scales
- j. "C-520, Accessible Parking Data," at varying scales
- k. "C-530 Compactor Details," at varying scales
- l. "C-540, Detail Sheet," not to scale
- m. "C-550 Detail Sheet, not to scale
- n. "C-560, Detail Sheet, not to scale
- o. "C-710, Truck Turning Radii," at a scale of 1"=20", revised to February 24, 2012
- p. "c-711, Truck Turning Radii," at a scale of 1"=20'
- q. "c-720, Accessible Grading Plan," at a scale of 1"=10'
- r. "C -730, Overall Site Plan with Aldi's Development," at a scale of 1"=60'
- s. "L-100, Landscape Plan," at a scale of 1"=40'
- t. "E-101, Site Photometric Calculations and Details," at a scale of 1"=40'

5. Plans entitled "Walgreens, Pershing Drive, Derby, Connecticut" dated January 24, 2012, prepared by Jeffrey Taylor Architect, with the following plans attached:

- a. "1-Phase 1 (Elevations)," at varying scales
- b. "2-Phase 1 (Elevations)," at varying scales
- c. "3-Phase 1 (Elevations)," at varying scales
- d. "4-Phase 1 (Floor Plans)," no scale
- e. "5-Phase 2 (Elevations)," at varying scales
- f. "6-Phase 2 (Elevations)," at varying scales
- g. "7-Phase 2 (Elevations)," at varying scales
- h. "8-Phase 2 (Floor Plans)," no scale
- i. "9-Existing Site Photos," not to scale

6. Existing Building Elevation Photos.

7. Letter from BL Companies to Planning and Zoning Commission, Town of Derby, dated November 9, 2011.

8. List of abutters within 500' of the site, with 500' radius around property depicted on Derby and Ansonia Assessor's Mapping.

9. Plan Entitled "RM-1, 500' Radius Map, Walgreens, Pershing Drive, Derby Connecticut," not dated, at a scale of 1"=80', prepared by BL Companies.

10. Copy of Lease Agreement between the State of Connecticut and the property owner.

11. Letter from BL Companies to State Traffic Commission, dated January 3, 2012

12. Comments from Milone & MacBroom, Inc. dated January 9, 2012, updated on February 21, 2012.

13. Letter from Micci & Korolyshun, P.C. to Theodore Estwan, dated January 9, 2012.

14. Comment letter from STC dated January 23, 2012.

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15. Response from BL Companies to comments from Milone & MacBroom, iNc. dated January 27, 2012.

16. Letter from DLS Traffic Engineering, LLC to Attorney Eugene D. Micci dated January 30, 2012

17. Plan entitled "Driveway Plan with WB-6 Truck, Proposed Retail Development, Pershing Drive, Derby, Connecticut", dated February 13, 2012, at a scale of 1"=20', prepared by BL Companies.

18. Letter from BL Companies to Attorney Eugene Micci dated February 17, 2012

19. Letter from BL Companies to State Traffic Commission, dated February 24, 2012.

20. Letter from BL Companies to State Traffic Commission, dated February 27, 2012.

21. Letter from City of Derby, Office of the Fire Marshal to Chairman Theodore Estwan, Jr. dated February 29, 2012.

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. The applicant shall submit a site plan in the event that the railroad property lease from the State of Connecticut is terminated demonstrating that the site plan remains in conformance with the Derby Zoning Regulations.

3. The applicant shall submit a revised site plan for review and approval in the event that an agreement is reached with the adjoining property owner to consolidate the driveway intersections along Pershing Drive demonstrating that the site plans remains in conformance with the Derby Zoning Regulations.

4. The applicant shall submit a site plan for staff review of the construction phasing plan as it pertains to construction limits, site drainage, sediment and erosion control, etc.

5. The Commission acknowledges that the State Traffic Commission has jurisdiction of the driveway cuts and improvement within the State right of way. The City and staff reserve the right to require additional on-site traffic control if necessary to improve on-site traffic circulation provided that no adverse impacts to the State roadways are created.

6. The proposed loading space shall conform to the requirements of the Derby Zoning Regulations.

7. The applicant shall notify the City Engineer a minimum of 48 hours prior to the commencement of excavation for the installation of the storm drainage infiltration structures.
8. The operation will be carried out in conformity with the maps and plans as approved.
9. 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 of the completed site plan
  - b. Site landscaping
  - c. Sediment and Erosion Control measures including the establishment of topsoil and seed for all proposed disturbed areas in the event that building and parking lot improvements are not completed in a timely manner after the site has been disturbed.
10. The Zoning Enforcement Officer and City Engineer shall have the authority to direct the applicant, to install additional sediment and erosion control measures as conditions may warrant.
11. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.
12. The Building Official shall not issue any building or zoning permits on the lots until the City Finance Director has verified that all fees have been paid in accordance with City of Derby Ordinance Section 85-3.

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

(b) Discussion and possible action – Application from BAMF Homes, LTD for 5 lot subdivision at 16 John Street (Application #2012-02-21001).

Mr. Estwan stated that the public hearing on this application is still open and has been continued to the April meeting.

(c) Application for Site Plan Approval from Steve Manillo for 300 Roosevelt Drive for use as a retail auction house – B2 Zone (Application #2012-02-21-01).

Steve Manillo was present. Mr. Estwan read the letter from the Fire Marshal which stated that there was no problem with fire department access to the property.

Mr. Estwan also stated that a review letter was received Milone and MacBroom. Mr. Manillo stated that he will be opening an antique store and auction house at this location.

It will be open six days a week from Tuesday to Sunday. The hours of operation will be from 10:00 a.m. to 5:00 p.m. and there will be a weekly table auction. He stated that there is a

professional kitchen in the building and he will be using it to provide snacks. The auction will be in the large room with approximately ten tables for merchandise. He stated that they have  
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made some improvements to the exterior of the building. He also stated that they meet the parking requirements.

Mr. Joyce stated that he went out to the site and met with the applicant. He stated that there is a parking lot across the street that was used by the previous tenant. That parking agreement is no longer an option. There is no pavement striping but the applicant will be doing that. Mr. Joyce stated that they addressed most of the comments in the review letter.

Mr. Joyce asked the hours on the day of the auction. Mr. Manillo stated that the auction would be on Wednesdays evenings from 6:00 to 9:00 p.m. They plan on occasionally having a special event possibly once a month. Mr. Joyce stated that it would be their recommendation that they contact DOT regarding getting signage. He also stated that the handicap spaces must meet the building code. There is a wall and railing along the Housatonic River which should be reviewed for safety features.

Paul Schraffa stated that at this time they are not sure of the hours of operation but they would rather state that they are 9:00 a.m. to 10:00 p.m. He also stated that they will not be pursuing a liquor permit.

Mr. Estwan moved following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Site Plan Review for Steve Manillo on property shown on Derby Assessors Map 10-3, Lot 7 subject to the following conditions:

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

1. The hours of operation will be Tuesday through Sunday 9 AM to 10 PM. With one special event on a monthly basis during the same time.
2. The applicant shall obtain approval from the construction of the sidewalk, the proposed signage, and pavement markings within the Route 34 right-of-way from the Connecticut Department of Transportation.
3. A written affidavit of agreement, binding each participating owner and successor in interest for the life of the joint use of the facility on 300 Roosevelt Drive with the parking area on 285 Roosevelt Drive shall be recorded in the land records per Section 195-55.D. of the Zoning Regulations.
4. The applicant's engineer shall certify whether the existing wall and railing along the Housatonic River require any additional safety features for vehicles or pedestrians.
5. All handicapped parking shall be provided in accordance with the Connecticut State Building Code.

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

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7. Any site or building signage shall be detailed and submitted to the Zoning Enforcement Officer for review and approval in accordance with the Zoning Regulations.

8. Minor typographical errors in the parking count and the boundary of 285 Roosevelt Drive are to be corrected.

9. All exterior lighting shall conform to the applicable section of the Derby Zoning Regulations.

10. The Building Official shall not issue any building or zoning permits on the lots until the City Finance Director has verified that all fees have been paid in accordance with City of Derby Ordinance Section 85-3.

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

(d) Application for CDD Approval from Art Celaj for 35 Minerva Street for use as a Christian center church (Application #2012-02-21-03).

Art Celaj was present and stated that the church will be using an area of approximately 1700 square feet in the rear of the building. He stated that they anticipate having between 12 to 15 people at one time. He spoke with Leo Moscato about parking in the municipal parking garage. The hours of operation will be Tuesday from 5 PM to 7 PM; Thursday from 6 PM to 8 PM and Saturday from 4 PM to 6 PM.

Mr. Estwan asked what is there now and Mr. Celaj stated that it is an empty space that he had been using for storage. He stated that the entrance will actually be from Third Street. There was a retail/office use at one time.

Mr. Estwan stated that this is a CDD review application and it is not the intent to bring in a church type activity in this area. The CDD zone is a commercial district. He stated that he is looking for a compelling reason to change from a commercial use to a church. Mr. Celaj stated that the area in the rear was always used as a storage area. The retail use was in the front of the building.

Mr. Szewczyk stated that there is a municipal parking lot on Caroline Street that would be available for their use. Mr. Jalowiec stated that he did not feel that this type of use fit in the downtown area. Mr. Estwan stated that there is a designated zone in town for churches. Mr. Jalowiec stated that there are churches that could possibly rent space to them for their use since it is for limited hours. He did not feel that it was in conformance with the CDD Zone.

Mr. Jalowiec moved that the application from Art Celaj for 35 Minerva Street for use as a Christian center church be denied without prejudice as it does not meet the intent of the CDD

Zone and plan of conservation and development and Sections 195-20a# and 195-20c2 of the regulations. The motion was seconded by Mr. Estwan and carried unanimously.

John Esteves, applicant was present. He stated that he has been in operation for about 16 years, has 22 employees and has two facilities in Bridgeport. He also stated that he had one in Ansonia. He stated that he has been working with disabled individuals since 1996. He stated that he teaches them how to live in the community, how to get jobs and things like that. He purchased this building. He stated that he has serviced over 100 families in the Valley and works with individuals 18 to 30 years old. He stated that he teaches life skills and how to live independently when they are disabled. He stated that this building is not handicap accessible and he would like to make it accessible. The front entrance is right from the street. There is an office on the first floor along with a training room and weight room. There is also a kitchen area which is used to teach living skills.

Mr. Estwan asked what is in the building now. Mr. Esteves stated that it is vacant. He has an office on the second floor. Mr. Jalowiec asked about parking and Mr. Esteves stated that there are only three spaces but none of his clients drive they are all dropped off. Mr. Estwan asked the hours of operation. Mr. Esteves stated that he has 17 vans which he uses to pick up clients. The drivers typically start out from Bridgeport and they are in service from 9AM to 3 PM. He stated that the State only provides for a day program. He stated that he may run a recreational program as a special event. Mr. Estwan asked how many employees would be on site and Mr. Esteves stated that right now there are four.

Mr. Jalowiec moved to approve the application and waive the parking requirement based on the use. He stated that given the nature of the use the parking on site is sufficient. The motion was seconded by Mr. Stankye and carried unanimously.

(f) Request for Extension of Deadline for filing subdivision documents – Belleview Farms Subdivision.

Mr. Estwan read a letter dated 3/20/12 from Ray Sadlik, Belleview Farms requesting a 90 day extension for filing the subdivision map for Belleview Farms Subdivision, Belleview Drive. Mr. Szweczyk moved to grant the 90 day extension for filing the subdivision map for Belleview Farms Subdivision. The motion was seconded by Mr. Stevens and carried unanimously.

(g) Bond Reduction Request – Lowe's.

A memo was received from Milone and MacBroom regarding the bond reduction request from Lowe's. It noted that the performance bond had been reduced from \$72,000. To \$7,200 and it would be their recommendation that this bond be released. They noted that the applicant has completed all required site plan improvements. Mr. Jalowiec moved to approve the bond release from Lowe's of the \$7,200.00 performance bond. The motion was seconded by Mr. Stankye and carried unanimously.

Old Business:

(a) Update on Redevelopment Zone.

Atty. Coppola stated that there was no report at this time.

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Executive Session

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

Atty. Coppola stated that it was not necessary to have an Executive Session regarding enforcement issues.

Payment of Bills

Mr. Stankye moved that the following bills from Milone and MacBroom be paid. – Invoice #59205, #59206, #59207, #59208 and #59209 be paid. The motion was seconded by Mr. Stevens and carried unanimously.

A motion to adjourn was made by Mr. Stankye, seconded by Mr. Stevens and carried unanimously. The meeting was adjourned at 10:45 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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