

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

A special meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, March 26, 2013 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, Richard Stankye, Glenn Stevens, David Rogers, Albert Misiewicz 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

Chm. Estwan stated that a letter was received from Naugatuck Savings Bank that they will not be renewing the letter of credit for Hidden Woods Subdivision and asking that the original letter of credit be returned to the Bank.

Chm. Estwan also stated that a letter was received from the State of Connecticut which is an aquifer protection area registration approval letter for Osborndale State Park. The letter was referred to the city engineer to review.

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

A motion to approve the minutes of the February 19, 2013 meeting was made by Mr. Stankye, seconded by Mr. Stevens and carried unanimously.

Acceptance of Applications

Chm. Estwan stated that there were no new applications to accept.

Public Hearing:

- (a) Application from South Central Connecticut Regional Water Authority for Site Plan Review for water tank installation – Mountain Street – Application #2012-12-18-01 – Continued from 02/19/13
- (b) Application from South Central Connecticut Regional Water Authority for Special Exception for rock crusher – Mountain Street – Application #2012-12-18-02 – Continued from 02/19/13

Chm. Estwan read into the record a letter dated March 11, 2013 from South Central Connecticut Regional Water Authority stating that they are withdrawing their application for the construction of a 2,000,000 water storage tank located at the west end of Mountain Street. The letter also indicated that they will be reapplying in the future. Chm. Estwan stated that this letter covers both applications that have before the Commission. A motion to close both public hearings was made by Mr. Stankye, seconded by Mr. Szewczyk and carried unanimously.

New Business

- (a) Application from South Central Connecticut Regional Water Authority for Site Plan Review for water tank installation – Mountain Street – Application #2012-12-18-01.
- (b) Application from South Central Connecticut Regional Water Authority for Special Exception for rock crusher – Mountain Street – Application #2012-12-18-02.

Chm. Estwan stated that both applications have been withdrawn. A motion to accept the letter withdrawing the applications was made by Mr. Szewczyk, seconded by Mr. Stankye and carried unanimously.

- (c) Application for Site Plan Approval from Louis Salemme for Pershing Drive for retail and restaurant use – B-1 Zone – Application #2013-02-19-01.

Chris Gagnon, BL Companies was present for the applicant and presented the site plan set for the site and architectural drawings for the two known tenants for this project. He stated that they have also submitted a traffic impact study and a letter from their wetlands department indicating that there are no wetlands on the site. They also submitted a letter speaking in general about the storm water management situation there and the impervious coverage at this site. He stated that this is a redevelopment of a property on Pershing Drive. He stated that on the northern property the site was approved for Walgreens. This is a continuation of the improvement of this area. He stated that at this time they have agreements with a proposed Panera with a drive-thru on Pad "A" and an Aldi's Supermarket on Pad "B". He stated that they are looking to get approvals for Pad "C" which is a retail pad, Pad "D" is a bank and Pad "E" is a restaurant. He stated that there are no tenants at this time for those pads but they are in negotiation with potential tenants.

He stated that they appeared before Inland-Wetlands and there are no wetlands on site but because of the size of the development and the fact that there is storm water management associated with the project. He stated that they need to do a little more work on that plan but the Inland Wetlands has indicated that they are willing to provide a positive referral on that. He stated that they need to go back to them at the beginning of next month.

Mr. Gagnon stated that the existing site is a developed property. It is 100% paved now and some demolition permits have been obtained to take down a few of the buildings there. The proposed project will remove the rest of the buildings. There is only one remaining and the site will be completely repaved. There are existing utilities there and the majority of the mains will remain and they will be pulling services to the new buildings off of those mains. There is an existing access easement and sewer easements and those will remain. He stated that they are in compliance with the zoning regulations. He stated that Inland-Wetlands wanted to see that water quality measures were proposed which has been added to the plans. He stated that they felt that Inland-Wetlands would approve the project. He stated that this is an introduction of the project to the Commission. Pad "A" will be a Panera restaurant with a drive-thru and Pad "B" will be an Aldi's Supermarket.

Chm.Estwan asked about the realignment of the exit. Mr. Gagnon stated that should be happening prior to this development. He stated that is critical to the development of the northern portion of the property.

Mr. Szewczyk asked about the demolition plan and stated that he would like to see capping of the utilities on the current site plan. Mr.Gagnon stated that the plans are being constantly updated as work is being done on the site.

Chm.Estwan asked Mr. McEvoy if he has a chance to review the plans in detail and he indicated that he has not. Mr.McEvoy asked is they are going to phase in the construction. Mr. Gagnon stated that has construction goes along they will be coming back in front of the Commission as the tenants. He stated that they want to build the entire parking lot and get the two pads done. He stated that the goal is have all the construction done. Chm. Estwan asked if they foresee any change in the remaining three pads as to the type of development. Mr. Gagnon stated that this is the intent and they are in negotiations with potential tenants that reflect this plan.

Mr. McEvoy stated that he will be reviewing the plans as soon as possible and Chm. Estwan stated that the review letter from Milone and MacBroom should be available for the next meeting.

(d) Application for Site Plan Modification from Gallery 34 Antiques & Auctions for 300 Roosevelt Drive – site plan amendment for parking and lot line revision between Lot 102 and 103 – Application #2013-02-19-02.

Fred D'Amico was present for the application. He stated that this is the site of the former Royale Restaurant and the approved used is for an auction house and antique gallery. He stated that they have a proposed buyer for most of the property but the three family existing dwelling on the south side of the parcel which is across the street from the auction house did

not have the required six parking spaces. He stated that they revised the lot line to make sure that it had the six parking spaces. He stated that by doing so they had to realign the parking spaces in the existing parking lot for the lot across the street. He stated that the only other change is that the existing crosswalk was never paved and they are utilizing the other crosswalk. Mr. D'Amico stated that by revising the lot line it changes the existing three family dwelling from a non-conforming lot to a conforming lot with the correct number of parking spaces. He stated that they are required to have 29 spaces for the antique building and have 36 spaces provided.

Mr. McEvoy stated that he prepared a review letter and one major concern is the relationship between the parking on the lot across the street and the proposed use. He stated that they indicated that they will be getting a lease agreement across the property and he asked if it would be in perpetuity of the use across the street. Mr. D'Amico stated that the auction house did lease that parcel. Mr. McEvoy stated that they also raised the issue about the nature of the fencing and railings and retaining walls along the river. This needs to have some additional review of the safety features of that so that there is no danger to the public. He stated that they will need to work with the building official to determine what needs to occur along that western property line. He also stated that if they are going to lease that property then any use of that property for parking will have to be recorded on the land records.

Mr. D'Amico stated that he spoke with Dave Kopjanski and he wanted one section of the wall reinforced. He stated that they have only a temporary certificate of occupancy because they did not actually complete a few of the items from the original approval. They need to stripe the parking lot and do the wall reinforcement.

Mr. Estwan moved that 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 Gallery 34 Antiques & Auctions on property shown on Derby Assessors Map 10-3, Lot 7, 102 & 103 subject to the following conditions:

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

1. Statement of Use.
2. Plan entitled "Site Plan, Gallery 34 Antiques and Auctions, with Restaurant and Lounge, 300 Roosevelt drive, Derby, Connecticut", scale: 1" = 20', dated February 8, 2012, revised to January 30, 2013, prepared by D'Amico Associates.
3. Legal descriptions of properties.

With the following stipulated conditions:

1. The applicant shall obtain approval for the construction of the sidewalk, the proposed signage, and pavement markings within the Route 34 right-of-way from the Connecticut Department of Transportation.

2. 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 and property labeled now or formerly of Weignold shall be recorded in the land records per Section 195-55.D of the Zoning Regulations.
3. The applicant's engineer shall review the elevations of the existing wall, railings, and grades along the river with the Building Official to determine what additional safety features may be needed for vehicles and pedestrians along the western side of the property adjacent to the Housatonic River.
4. All handicapped parking shall be provided in accordance with the Connecticut State Building Code.
5. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.
6. 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.
7. The lot line revision as shown on the referenced documents shall be reviewed by the Zoning Enforcement Officer prior to the filing on the Derby Land Records.
8. All Exterior lighting shall be in conformance with the applicable sections of the Derby Zoning Regulations.
9. 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. Stevens and carried unanimously.

(e) Application for CDD Approval from Stacey Ference for 23 Elizabeth Street for use as a catering service – Application #2013-02-19-03.

There was no one present for the application. A motion to table to the April meeting was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously.

(f) Application for Site Plan Modification from Sprint Spectrum Realty Co. for 137 Derby Avenue – Replacement of existing antennas and equipment – Application #2013-02-19-04.

There was no one present for the application. A motion to table to the April meeting was made by Mr. Stankye, seconded by Mr. Stevens and carried unanimously.

(g) Application for Site Plan Modification from Sprint spectrum Realty Co. for 134 Roosevelt Drive – Replacement of existing antennas and equipment – Application #2013-02-19-05.

There was no one present for the application. A motion to table to the April meeting was made by Mr. Stankye, seconded by Mr. Stevens and carried unanimously.

(h) Discussion Re: Regulations – Use of electronic Billboards.

Chm. Estwan presented copies of USDOT study on electronic billboards or as referred to in our regulations as animated signs. He stated that they are prohibited and not allowed under the regulations. He stated that this was place on the agenda to reiterate the fact that animated signs or electronic billboards are not allowed. He stated that if an application were to be presented there is a method to follow and that would be an application for zone text change.

Old Business

(a) Update on Redevelopment Zone.

There was no update at this time.

Executive Session

- (a) Update on Enforcement issues; discussion of pending litigation; and
- (b) GAMF v. P&Z Commission; discussion of pending litigation.

A motion to go into Executive Session and have Atty. Coppola and Ryan McEvoy attend was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously. The Commission went into executive session at 7:45 p.m.

A motion to come out of Executive Session and resume the regular meeting at 8:10 p.m. was made by Mr. Stevens, seconded by Mr. Misiewicz and carried unanimously.

Payment of Bills

Mr. Szewczyk moved that the following bills from Milone and MacBroom be paid. – Invoice #62938, #62939, #62940, #62941, #62942 and #62943. The motion was seconded by Mr. Stankye and carried unanimously.

A motion to adjourn was made by Mr. Szewczyk, seconded by Mr. Stankye and carried unanimously. The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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