

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

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

David Barboza II

Richard A. Stankye

Albert Misiewicz

Glenn H. Stevens

David L. Savo (Alternate)

Joseph Gruttadauria III (Alternate)

Maryanne DeTullio, Clerk

A meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, March 20, 2007 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:10 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Rogers, David Barboza and Richard Stankye. Also present were Atty. Joseph Coppola, Michael Joyce, Milone & MacBroom and Maryanne DeTullio, Clerk.

### Additions, Deletions, Corrections to Agenda

A motion to add as Item 10b request for 90 day extension from Edgebrook Estates was made by Mr. Barboza, seconded by Mr. Stankye and carried unanimously. A motion to add as Item 10c, informal discussion, Derby Recreation Camp was made by Mr. Rogers, seconded by Mr. Stankye and carried unanimously. A motion to add as Item 10d referral from City of Ansonia regarding proposed zone change was made by Mr. Barboza, seconded by Mr. Stankye and carried unanimously. Chm. Estwan stated that a letter was received withdrawing Item 8a, which will be deleted from the agenda.

### Public Portion

There was no one from the public wishing to speak.

### Approval of Minutes:

A motion to approve the minutes of 02/20/07 meeting was made by Mr. Rogers, seconded by Mr. Stankye and carried unanimously.

### Acceptance of Applications:

Mr. Rogers moved to accept an application for site plan modification from Starbucks for New Haven Avenue. The motion was seconded by Mr. Stankye and carried unanimously.

Public Hearings:

(b) Application for Special Exception Use from Derby Shopping Center, LLC for 500 New Haven Avenue - B-1 Zone.

Atty. Thomas Welch submitted copies of the notification letters sent by certified to property owners within 500' of the property. He also submitted a response letter to the review from Milone and MacBroom. He stated that the traffic impact study was submitted last month as well as the maps, parking utilization study, storm water management report and asked that they be part of the record. He stated that this is a permitted use in the B-1 Zone and they are asking for a special exception to reduce the number of parking spaces and also for screening, sifting, washing or crushing of material needed for the site and used for site purposes only. He stated that this is a redevelopment of an existing shopping center and is in conformance with the plan of development. All the buildings, structures and uses are accessible for fire and police protection. The traffic accesses do not propose any hazards. He stated that they have complied with all procedural requirements.

Larry LePere, Lowe's stated that they are the second largest home improvement store in the world and will be employing 160-180 employees at the Derby store. He stated that they are striving to be a good corporate neighbor and he will be happy to answer any questions regarding their operation.

Ray Gradwell, Langan Engineering stated that this is the site of an existing shopping center which is accessed by Route 34 and also Sodom Lane. The site is 20.6 acres and slopes north to south. Two Mile Brook runs through a portion of the site. The existing buildings on the site will be demolished with the exception of Webster Bank, Burger King and Dunkin Donuts. The proposed new building will be in the same basic location as K-Mart and there will be a retail and restaurant proposed on the site. The two accesses will remain and there will be improvements to the Burger King driveway. He stated that they will be cutting into the hill at the northwest corner. They will also be adding a substantial amount of landscaping throughout the parking areas and along the perimeter of the site.

Mr. Gradwell stated that they have a complete storm water plan and will be adding more catchbasins which will be interconnected with a pipe network into detention fields and the overflow into Two Mile Brook. The storm water quality will be greatly improved. All utilities will be underground. The proposed building will be 152,000 s.f. and the proposed restaurant will be 3200 s.f. and the retail space 8000 s.f. They are proposing 612 parking spaces on site and will be looking for a special exception for the parking for Lowe's which is based on 2.9 per 1000 s.f.

They will be excavation in the northwest corner and the limits of that excavation has been staked out. A geotechnical investigation has been done and will be further investigated prior to the final design. The rock memorandum which is part of the geotechnical investigation and they looked into the structurability and stability of the slope for the long term future on this project site. There were some recommendations in that memorandum as to how that rock cut will be executed and stabilized.

John Plante, traffic engineer stated that they will be generating less traffic here than used to be generated here with a fully occupied center. It is the redevelopment of an existing center and some of the existing buildings will be demolished. They have taken into consideration what is being proposed and identified critical intersections which were studied. They also studied the peak hours for retail use which would be week day evenings and Saturday mid-day. They took those counts at different intersections and projected the trips that will be generated by existing users and new buildings and developed an analysis of those and compared to the existing background conditions. He stated that they also looked at what would be generated if fully occupied and submitted those to DOT and those were approved. They agreed that it will be less traffic with Lowe's than what was there before.

They are proposing improvements to the driveway on Route 34 by increasing the island and radius to allow for appropriate turning movements. The driveway into Burger King is being proposed to be reconstructed so that it will be difficult to make a left turn into the driveway. He stated that they have limited ability in this area because of leasing agreements which would not allow that driveway to be closed. It is appropriate to further restrict it to make it more difficult. They are proposing to widen the radius at the corner of Route 34 and Sodom Lane. They will be extending the left turn lane into Sodom Lane and the staking area will be longer and the signal light retimed.

He stated that it would be difficult to make it a double turning lane from Route 34 which would cause safety issues on Sodom Lane. The intersections and driveways operate at acceptable levels. He stated that the STC application has been submitted and it is being reviewed and they are in communication with them.

Mr. LePere stated that the building will be beige tones with blue and there will be a lot of relief to the front of the building. The garden center will have vinyl fencing and roofed.

Atty. Welch stated that they put together a very thorough presentation and look forward to working with the City on this project and it will enhance the area.

Mr. Joyce asked that they point out the proposed changes to the Webster Bank area. Mr. Gradwell stated that Webster Bank now has three access points and they are proposed to minimize those access points to improve the circulation around the Bank. They proposed one entrance and access just off of Sodom Lane and a new parking area.

Mr. Joyce asked about the rock excavation and stabilization measures and the design application. Mr. Gradwell stated that they are proposing excavation work in the northwest corner of the site. There will be no blasting; it will be line drilling along the perimeter and then use hydraulic rock splitters to pull the rock off the slope. Once it is completed there are two treatments which are proposed. They will be providing additional stabilization measures especially in that area. Mr. Joyce asked that the details of this be provided. Mr. Gradwell stated that they have added that to the plans.

Mr. Joyce stated that there is a special exception request for the processing and they

are proposing 55,000 cubic yards of excavation. The proposal is to lower the building from where the existing building is. Mr. Gradwell stated that the processing will be for materials they will be using on site and anything else will be removed from the site.

Mr. Joyce asked about the parking reduction and that it was based upon different studies and they also looked at the Home Depot site. He stated that there was no problem with that but it is important that they are located near the entrances to the store. Mr. Gradwell stated that most of the spaces are in the front and along the side of the garden center.

Mr. Estwan stated that pre-construction meetings were held and during those the proposed restaurant did not include a drive-thru and he stated that another drive-thru will not be looked upon favorably by this Commission. There are already three drive-thrus in this location. A stand alone restaurant will be fine but not a drive thru. He also stated that in the traffic impact study it states that a fast food restaurant with drive thru was used for the trip generations. Mr. Plante stated that it was done for economic reasons. He stated that the STC does look at change of uses and if there is one that generates less traffic than what was there before they take that into consideration that the center paid its price at some point to address and mitigate the impact. He stated that the local roads will get more impact but they have provided more queuing at the intersection. They have discussed these issues with DOT and are taking them into consideration. Mr. Joyce asked about the date of the latest modification certificate and Mr. Plante stated that they can get that information. Mr. Joyce asked about the Burger King driveway and Mr. Plante stated that it cannot be closed because of language in the lease agreement. Mr. Estwan stated that the local traffic authority has discussed this and are in the process of getting data on accidents at that area and they would like to see it closed. Mr. Plante stated that it would be best to close it but they have no rights to do that. They will get a copy of the lease.

Mr. Joyce asked about the proposed landscaping. Mr. Gradwell stated that they will be providing a board on board fence to act as a further buffer along with evergreens, shrubs and bushes. Mr. Joyce asked about a permanent fencing around toward the north of the site and Mr. Gradwell stated that there will be a fence along the top of the rock cut which will be a natural cedar fence. Mr. Estwan felt that a plastic fence would not need as much maintenance and it would blend in with the plantings. Mr. Gradwell stated that they can look into that. He also stated that additional plantings will be provided along the northwest edge.

Mr. Joyce asked about the lighting and there are some light fixtures on the site now that are very high. Mr. Gradwell stated that the proposed fixtures will be 20' in height and what is there now is much higher. He stated that once the K-Mart building is demolished they will have to refigure the lighting. Mr. Joyce asked about the signage and Mr. Gradwell stated that the proposed sign is smaller than what is there now but some of the signs that are there for current tenants will remain.

Mr. Rogers stated that in looking at the proposed drive-thru restaurant he asked how many cars can queue there. Mr. Gradwell stated that it would be about 10 cars. Mr.

Estwan stated that they will be looking at that more closely. Mr. Rogers asked about tractor trailer truck access to the rear and the hours of deliveries. Mr. Gradwell stated that there is sufficient room for the trucks to access the loading area. Mr. LePere stated that the deliveries would be during the daytime hours from 6:00 a.m. to about 4:00 p.m. and Lowe's has a set of rules that the drivers must adhere to and if they do not they are fined. Mr. Joyce asked about the turning movement for trucks taking a left for eastbound Route 34 if a tractor trailer truck could make that turn or will they use Sodom Lane. Mr. Gradwell stated that they can use either.

Atty. Welch stated that this is a redevelopment project and this is an improvement to the area. It is a safer project and much better than what is there now.

Mr. Stankye asked about outside storage and if they anticipate deliveries later than 4:00 p.m. Mr. LePere stated that it would be 4:00 p.m. and unloaded by 6:00 p.m. Mr. Stankye asked if they considered a turning lane from Sodom Lane heading west on Route 34 in front of Burger King to alleviate traffic on Sodom Lane. Mr. Plante stated that it is really not the right turn lane that is a problem; it is the left turn lane.

Mr. Estwan asked for public comment on the application.

Mayor Staffieri stated that the traffic pattern does cause problems and asked that they take into consideration when speaking with DOT the possibility of another opening on Route 34.

Ernie Lagoja, 73 Franklin Avenue stated that he works for the DOT and had some safety concerns. He spoke on the barrier that protects the stream and suggested that it be replaced with something else. Mr. Plante stated that there has been some deterioration and they will be repairing a portion and replacing it and also providing at the inlets and outlets around those culverts appropriate soil and erosion control measures. Mr. Lagoja stated that he was talking about the metal beam and suggested replacing it with concrete barrier. Mr. Plante stated that they are going to be providing a chainlink fence around those areas and some new vegetation. Mr. Lagoja also spoke on the volume of traffic in the area and the local traffic has increased in the last few years. He felt that a left turn only lane to Lowe's be designated. He also felt that some improvements on Sodom Lane need to be made. He stated that they might want to look into a double left turning lane. He also spoke about the driveway at Burger King and suggested that the parking be reconfigured there. He also mentioned the possibility of a guardrail on Route 34 along Burger King.

Mrs. George Jupin, 464 New Haven Avenue read a letter from her and her husband with concerns about lighting from the site and also stating that the project should meet all zoning regulations.

Kenneth Hughes, 470 New Haven Avenue and Third Ward Alderman stated that he is looking forward to Lowe's coming in and was concerned about lighting and buffers to the residential neighbors.

George Jupin, Jr., 464 New Haven Avenue submitted a letter to the Commission with concerns about objectionable lighting. He was also concerned about the flow of traffic and the problems that residents have coming out of their driveways. He stated that they could take that into consideration with the timing of the signal lights. He asked about the height of the fence along the western side of the property and Mr. Gradwell stated that it will be 8' high.

Dolores Cremoni, 15 Homestead Avenue submitted a letter with concerns about lighting, signage and buffers.

Philip Marcucio, Marcucio Gardens, New Haven Avenue asked what the proposal will do to his business. Mr. LePere stated that Lowe's is not only a garden center and if someone is a good retailer they will continue to strive and not have problems. Mr. Marcucio questioned the traffic counts used and Mr. Plante stated that they took the number of new day trips anticipated which would be 250 in the evenings and 400 on Saturday. Mr. Marcucio asked about the traffic counts ten years ago and Mr. Plante stated that they used existing traffic volumes. Mr. Marcucio stated that the traffic in the area has increased and he is not opposed to the project but wants to see safe traffic conditions.

Mary Ellen LoRocco, 17 General Wooster Road asked about garbage pick-ups and deliveries to other stores. Mr. LePere stated that garbage pick-up will be by a local company and they will deal with the scheduling with them and will be sensitive to the residents. Atty. Welch stated that at this time they do not have another tenant or customers and will take into consideration the neighbors and will do whatever is necessary from a business point of view.

Don North, Commodore Hull Drive had concerns about traffic and the Burger King driveway situation. He stated that this is a difficult area and asked if the town can do anything. Mr. Estwan stated that Route 34 is a state road and under the jurisdiction of the STC and they will review the plans and make recommendations. He stated that the timing and queuing lanes have been improved.

Michael Haddock, General Wooster Road asked about the location of the Lowe's building. Mr. Gradwell stated that the building will actually be closer to Route 34 than K-Mart and the only area to be pushed back will be the northwest corner.

Ted Baltus, General Wooster Road asked when the project will start and the time frame for completion. Mr. LePere stated that they are going through the approval process and they expect that it will take nine months to complete.

Brian Calvert, Lewis Street stated that it is a great plan and will enhance other businesses in the area. He stated that there is a lot of traffic on Route 34 but they are making improvements.

Dorothy Krieger, 21 General Wooster Road asked which restaurant will be coming and Mr. Estwan stated that they do not know at this time. She also asked about whether the

delivery trucks will idle and was concerned about the noise. Mr. LePere stated that they will back into the loading area and be unloaded and the trucks turned off. She also asked if the tall trees will be removed and Mr. LePere stated that they will not be.

Leo Moscato, Lewis Street stated that there are some concerns but it is a good economic development for the city and we need more tax base. He felt that they will address all the concerns.

Irma Haddock, General Wooster Road asked about the location of the building. Mr. Gradwell pointed out the location on the plans and stated that it will be in the same general location as K-Mart.

Mr. Estwan stated that he is very much in favor of Lowe's and the previous owner of the shopping center was an absentee landlord and there were a lot of problems with the site. He stated that the city is happy to have Lowe's and although there are concerns, they will be addressed. Mr. Barboza stated that there are two lanes on Sodom Lane and Mr. Plante stated that there are and they will be striped.

Mr. Gradwell thanked the board, city engineer and mayor for taking the time to meet with them and review the project.

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

### Old Business

#### (a) Update on Redevelopment Zone

Atty. Coppola stated that they are continuing to discuss the GAP. The last meeting of the agency was cancelled.

### New Business

#### (a) Application for CDD Approval from Calco of Caroline St., LLC for commercial building with mixed use; retail office and warehouse at northwest corner of Fifth and Elizabeth Streets - CDD Zone.

Atty. Thomas Welch and Don Smith were present for the applicant. He submitted copies of the certified mailings to the adjoining neighbors. He stated that are required to have a temporary construction easement with the Altimari property which is adjacent. After discussion with the city engineer it was determined that only a temporary construction easement is necessary and a copy of that was submitted. Atty. Welch stated that this is an application for site plan approval which includes the demolition of the existing building and construction and redevelopment of the property. The property is located in the CDD zone and the proposed use is in conformance with that zone.

Atty. Welch submitted a letter regarding bulk requirements which can be waived in this

district. He also addressed some concerns expressed by the city engineer. He stated that with regard to the fencing along the exterior of the property they intend to use that fencing if possible and if not it will be replaced with the same type of fencing. He provided a cut sheet regarding the outside lighting which will be in conformance with the regulations. He stated that another issue had to do with the waiver which has been provided. He stated that the plans will be amended to show the sidewalk ramps. He stated that the city engineer asked for details of the utility trench and the only trench will be for gas and any regulation regarding that will be satisfied. He stated that a note will be added that the proposed walkway along the northern side will be flush with the parking lot. He stated that as far as construction and demolition activity access will be limited to Fifth Street and not Elizabeth Street.

Mr. Joyce asked about the fencing along the border and suggested that slats be put in. Mr. Calvert stated that their hours of operation are regular business hours Monday through Friday to 5:00 p.m. Mr. Rogers asked the location of the dumpster and Mr. Calvert stated that there is no dumpster and they use regular garbage pickup. Mr. Joyce stated that if the fence has to be replaced it be replaced with a fence with proper screening. Mr. Calvert stated that there is a shed on the adjacent property which is leaning on the fence and he is concerned about the shed. Mr. Calvert stated that they will address those issues. Mr. Estwan read a letter from the Fire Marshal indicating no problems for fire access.

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 CDD and Site Plan Application for Calco of Caroline St., LLC on property shown on Derby Assessors Map 8-5, Lot 39 subject to the following conditions:

The approval shall be based upon the following documents submitted in support of and during the review of this application.

1. Statement of Use.
2. "Existing Conditions and Demolition Plan" prepared for Calvert Safe & Lock LTD - #160 Elizabeth Street, Derby, Connecticut, prepared by Michael H. Horbal, dated 10/24/2006 and revised through 2/17/2007, drawn at a scale of 1" = 10'.
3. "Proposed Layout Plan", prepared for Calvert Safe & Lock LTD - #160 Elizabeth Street, Derby, Connecticut, prepared by Michael H. Horbal and signed by Donald W. Smith, Jr., P.E. dated 10/24/2006 and revised through 2/17/2007, drawn at a scale of 1"=10'.
4. "Proposed Grading and Utility Plan", prepared for Calvert Safe & Lock LTD - #160 Elizabeth Street, Derby, Connecticut, prepared by Michael H. Horbal, dated 10/24/2006, drawn at a scale of 1"=10'.
5. "Construction Details", prepared for Calvert Safe & Lock LTD - #160 Elizabeth Street, Derby, Connecticut, prepared by Michael H. Horbal, dated 10/24/2006, not



scale.

6. "New Buildign at Corner of Elizabeth & Fifth Streets - Derby, Connecticut - Drawing #PR 101", prepared for Calvert Safe & Lock, prepared by Russell James Larrabee, Architect, dated 2/12/2007 (revised), scaled as noted.
7. Photometric Information Regarding on site lighting.
8. E-Mail response letter from Brian Calvert dated 03/19/07.

With the following stipulated conditions:

1. Plans shall be revised in accordance with the City Engineer's letter dated March 19, 2007.

2. Prior to any construction activities covered by this permit, the applicant shall have the following items both completed by a qualified party and verified as complete by the City Engineer, Corporation Counsel and/or Zoning Enforcement Officer:

- a. Finalize the proper documentation for review and approval by the City Engineer and Corporation Counsel for the proposed 10' Maintenance and Temporary Construction Easements.

- b. Execute the approved easements and agreements and arrange for the proper filing on the Derby Land Records.

- c. Written confirmation that the deed of the property references the stipulated conditions of this approval, including all easements and agreements.

- d. Arrange for the filing of this approval on the Derby Land Records.

- e. The proper installation of all safety and sediment and erosion control measures indicated on the above referenced plans.

3. Prior to the commencement of the construction a bond covering the costs of the work to be performed within the City right-of-way and on adjacent properties in a form and amount approved by the City Engineer and Corporation Counsel shall be filed with the City Clerk.

4. Any significant changes or modifications to the plans presented will require subsequent review and approval by the Planning & Zoning Commission.

The motion was seconded by Mr. Stankye. Mr. Joyce stated that stipulated condition #1it should be added that as discussed during tonight's meeting with further coordination regarding on site signage with the city engineer. Also, if the fence on the northern property boundary is replaced the fence shall provide screening to the adjacent

(b) Request for 90 day Extension - Edgebrook Estates.

Mr. Estwan stated that he received a letter addressed to the Corporation Counsel from Atty. Dominick J. Thomas requesting a 90 day extension to file the record mylar. A motion to grant the 90 day extension was made by Mr. Stankye, seconded by Mr. Barboza and carried unanimously.

(c) Informal discussion - Derby Recreation Camp.

Donald Smith and Robert Manger were present. Mr. Smith stated that they will be going to the ZBA for a setback waiver. He stated that they are here to informally discuss the proposed changes and get some feedback. They are proposing to add two stories to the present boathouse; which will be three stories on the river side and one story tall on Route 34. He stated that they have taken the on site parking area, some of which is being encroached on by their neighbor. They will provide some landscaping to separate that area and will end up with one parking space in that area. He stated that on the northerly section of the property there is an existing gate and gravel drive which provides access all the way down to the beach and the front of the building. They are proposing to pave a small portion of that and raise the grade and eventually develop that as the handicap entrance. They would like to put in an elevator with lift so that people can get down to the waterfront. The Camp session runs for eight weeks during the summer months. There is a section of the retaining wall along the river which will be replaced and they are seeking proposals for that work.

Mr. Smith stated that the main issue is the parking situation. They have met with DOT officials and can add 10 spaces for staff at their facility across the street. He stated that discussion came up about pedestrian signal and how drop off is handled. He stated that they are trying to make that drop off and pick up work better. The DOT suggested getting some drop off spaces in front of Guardiano Terrace and they would grant the right to access that property and get three spaces in that location. He stated that they are talking to the Housing Authority about that and also constructing 12 spaces in the grass area between Guardiano Terrace the first house. He stated that they have retained a traffic engineer to look at the possibility of installing a traffic signal at Lakeview Terrace. This signal would always be green on Route 34 and would be pedestrian regulated from Lakeview Terrace. He stated that they will be putting in the necessary louvers for flood protection to the building. They will also be adding bathrooms and making improvements to the ones that are there now. There are no mechanicals in the basement.

Mr. Estwan stated that having a pedestrian light would be a nice concept. He also asked that copies of any correspondence be forwarded to him so that he can forward them to the traffic authority. He stated that they would definitely support that.

Mr. Smith stated that the two variances they will be seeking have to do with on site parking and the other is regarding the regulation that all structures are to be 100' from the nearest property line.

(d) Mr. Estwan stated that a referral letter was received from the Ansonia Planning & Zoning Commission regarding zone change for age restricted multi-family housing. He will have the city engineer look at this and respond on behalf of the Commission.

Payment of Bills:

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

A motion to adjourn was made by Mr. Stankye, seconded by Mr. Barboza and carried unanimously. The meeting was adjourned at 10:30 p.m.

Attest:

Maryanne DeTullio

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