

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, April 17, 2007 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:00 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Barboza, Glenn Stevens, Steve Jalowiec, Albert Misiewicz, Joseph Gruttadauria and David Savo. Also present were Atty. Joseph Coppola, Michael Joyce, Milone & MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

A motion to add under Old Business reacceptance of meeting schedule for third Tuesday of each month was made by Mr. Jalowiec, seconded by Mr. Savo and carried unanimously.

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes:

A motion to approve the minutes of 03/20/07 meeting was made by Mr. Barboza, seconded by Mr. Estwan and carried unanimously with Messrs. Stevens, Jalowiec, Savo, Misiewicz and Gruttadauria abstaining.

Acceptance of Applications:

Mr. Savo moved to accept and schedule for public hearing an application from Patel's, LLC for 441-443 Roosevelt Drive. The motion was seconded by Mr. Misiewicz and carried unanimously.

Public Hearings:

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

Atty. Thomas Welch stated that based on comments from the Commission and public the plans have been revised and those were submitted. He stated that the Sodom Lane traffic configuration has been modified so that there will be an additional pass-by lane and striping. The drive-thru restaurant has been eliminated and will be a sit down restaurant only. As a result of this, new parking calculations were submitted as part of the record. Atty. Welch stated that they received Inland- Wetlands approval and have reconfigured the drainage to not substantially change the amount of water going into the pond. All water is now treated and will be a benefit to the environment. He stated that the rear neighbor in the left corner expressed some concerns and they will be putting in a row of evergreens and a fence to buffer the property. They are working with the neighbor on how it will be done. He stated that there were concerns about lighting and the lighting complies with all lighting regulations. He submitted as part of the record a copy of the lease with Burger King. He also stated that they have reconfigured the entrance to make a right turn in and out only and have made it as distinct as possible.

John Plante, Langan Engineering stated that the major changes since the last meeting have to do with the restaurant change to a 6000 s.f. sit down facility. There is no tenant for that restaurant at this time. That change effects the parking and traffic calculations. The parking has been slightly reduced and the ratio for Lowe's has been reduced to 2.5 per 1000. They did a shared use analysis of the center and there is more than enough parking to accommodate all the uses on the site.

Mr. Plante stated that one of the conditions of approval from Inland Wetlands is that all the watershed that comes off the hill to the back of the existing building will be picked up and brought into an open swale. He stated that with regard to the rock face in the rear where they are cutting into the hill they have been having discussions with the neighbors and will work with them on this matter. There will be a combination of evergreen trees along that location as well as a board on board cedar wood fence. There will also be a chainlink fence on top of the slope.

He stated that there was a lot of discussion on the access to the site. He stated that Sodom Lane will be widened to provide a right turn lane out on to Route 34 and restripe portion to provide a left turn lane and by-pass lane. They have modified the Burger King driveway to restrict as much as possible left turns in and out. They will still be widening Route 34 to provide additional storage on the left turn lane into Sodom Lane. He submitted an addendum to the traffic study. The sit down restaurant generates less traffic than a drive-thru facility. He stated that the one change that occurred was during the Saturday peak period, the level of service would be at Level C, which is a big improvement.

Mr. Savo stated that he had a problem with cars coming out of the site taking a left turn and he felt that it is difficult to do that. Mr. Plante stated that it is an existing condition and they are doing everything possible to improve it. Mr. Savo asked if there was anyway to move the entrance and Mr. Plante stated that there is an existing tenant and there are grade changes and the brook. He stated that they will be generating less traffic than what was generated by the existing shopping center if it were re-tenanted.

Mr. Barboza asked where the Lowe's refuse could be and Mr. Plante pointed out the location of the compactor. Mr. Joyce stated that he met with Mr. Gradwell and spoke on the shared use analysis. Mr. Estwan stated that it is a good trade off and the sit down restaurant is a better use and if felt that the shared use analysis was a good way to go. Mr. Joyce felt that the board on board fence will require maintenance and Mr. Plante stated that it will be natural cedar and will not be painted and if it needs maintenance they will be responsible for it. Mr. Estwan felt that if there are going to be evergreen plantings done a plastic type fence that requires no maintenance may be better to use in that area. Mr. Joyce felt that pre-construction surveys of properties should be done in the event of any possible blasting. Mr. Plante stated that no blasting will be done and if there were some, part of the process would be pre-construction surveys. He stated that they would agree to pre-construction survey even if there is no blasting.

Mr. Estwan stated that the Police Commission looked into accident data at the Burger King driveway and there have been 10 accidents over a five year period, all minor in nature.

Mr. Santiago Llanos, 13 General Wooster Drive stated that he was withdrawing his comments on the application.

A motion to close the public hearing was made by Mr. Barboza, seconded by Mr. Stevens and carried unanimously. A motion to add this to the agenda as Item 10(b) was made by Mr. Stevens, seconded by Mr. Jalowiec and carried unanimously.

Old Business

(a) Update on Redevelopment Zone

Atty. Coppola stated that they are continuing to discuss the GAP and the buildings have all come down.

(b) Reacceptance of Meeting Schedule

A motion to adopt a meeting schedule of the third Tuesday of each month at 7:00 p.m. was made by Mr. Stevens, seconded by Mr. Misiewicz and carried unanimously.

New Business

(a) Application for Modification of Site Plan for Bassler-Kaufman for 552 New Haven Avenue for change in use from retail to restaurant (Starbucks Coffee) - B-1 Zone.

Atty. James E. Cohen submitted a packet of information regarding the application as well as a traffic estimate. He stated that this is a change from existing retail to restaurant for Starbucks Coffee. He stated that the footprint and dimensions will remain the same. There will be no drive-thru and seating for 20. The parking will be reconfigured and striped and there will be 16 spaces. There are no other changes proposed and they estimate that there will be 5 to 6 employees per shift.

Atty. Cohen stated that in the statement of use there was an erroneous trip count given and the traffic estimate indicates that there should be 60 vehicles entering the site during peak morning cycle and 84 during the course of the day. He stated that if necessary they will ask for a waiver of a traffic report.

Kathy McVane, Starbucks stated that the interior will be changes and only some painting and clean up to the exterior of the building. Atty. Cohen stated that the proposed use will be a great benefit to the area. It will be an upgrade to the site and they are proposing more parking than required. Mr. Jalowiec asked about any landscaping to the site. Atty. Cohen stated that at this time the area is not always policed properly and they will clean up the area and make it presentable and add some plantings. Mr. Estwan stated that there are grass areas around the building and in the front where the bus shelter is. He felt that they could add some trees or shrubs in those areas to dress up the property. Atty. Cohen stated that they had no problem with doing that. He also stated that the dumpster details are shown on the plans and there will be no exterior lighting on the site. He stated that they will do some type of beautification and will be happy to consider granting an easement to the City as outlined by the city engineer.

Mr. Joyce asked about the possibility of having a no left turn sign at the driveway out to Sodom Lane. Atty. Cohen stated that it is a condition of the lease that the driveway be fully opened and if this is imposed Starbucks will cancel.

A motion to recess the meeting was made by Mr. Stevens, seconded by Mr. Savo and carried unanimously. The meeting was recessed at 8:00 p.m. and reconvened at 8:07 p.m.

Mr. Barboza stated that he agreed with the no left turn sign. Mr. Estwan stated that the concern jis with the intersection in this area and not coming back out onto Sodom Lane. The concern is coming out and having to go across several lanes to get to Route 34. Atty. Cohen stated that if this is done it gives Starbucks the option to terminate the lease. Kathy McVane from Starbucks stated that they would not agree to that.

Atty. Cohen stated that he has prepared a formal letter requesting a waiver of the traffic study if one is necessary. They have presented the traffic counts that would be

generated. Steven Kaufman, Bassar-Kaufman stated that there will be a certain amount

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of people traveling by that will stop and are not specifically coming to the Starbucks.

Mr. Estwan moved to approve the application and grant the waiver for the full traffic study. A condition of approval would be the improvement of the landscaping in the area of the bus shelter and also the property surrounding the building, the grass area that slopes down to the existing shopping center. Planting berms and islands will enhance the area and it will be up to the approval of the city engineer. Mr. Jalowiec seconded the motion and added that they conform to the screening fo the outside dumpster and any additional lighting will be subject to the satisfaction of the building official. The motion was carried unanimously.

10b. Application for Special Exception Use from Derby Shopping Center, LLC for 500 New Haven Avenue - B-1 Zone.

Mr. Estwan moved that pursuant to Section 195-48 the Derby Planning & Zoning Commission finds that the application and supporting documentation as presented is in accordance with Sections 195-48 (subsections A through D and F) of the Derby Zoning Regulations (the Regulations).

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 pursuant to Section 195-54(b)(6) and Temporary Special Exception pursuant to Article XVI of the Regulations for Derby Shopping Center, LLC on property shown on Derby Assessors Map 4-3, Lot 39 subject to the following conditions:

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

1. "Legal description of Property".
2. "500 New Haven Avenue - Derby, CT - Abutters List".
3. "500 New Haven Avenue - Derby, CT - Abutters List within 500 feet".
4. "Traffic Impact Study - for Proposed Lowe's - Redevelopment of Orange Derby Shopping Center", prepared by Langan Engineering & Environmental Services, dated February 13, 2007.
5. Revised Traffic Analysis - Proposed Re-development - Orange/Derby Shopping Center, prepared by Langan Engineering and dated 4/17/07.
6. "Parking Utilization Study - for Lowe's Home Improvement Centers - Various Locations in Connecticut" prepared by Langan Engineering & Environmental Services, dated February 7, 2007.

7. Derby Lowe's - Parking - Shared-Use Parking Analysis, prepared by Langan Engineering and dated 4/17/07.
8. "Stormwater Management Report - for Proposed Lowe's - Redevelopment of Orange Derby Shopping Center", prepared by Langan Engineering & Environmental Services, dated February 7, 2007 and revised through March 7, 2007.
9. "Geotechnical Engineering Investigation - Proposed Lowe's - Derby, Connecticut", prepared by Langan Engineering & Environmental Services, November 30, 2006.
10. "ALTA/ACSM Land Title Survey - Property/Boundary Survey - Lowe's Home Centers, Inc. - Sheet 1 of 2" prepared by Meehan & Goodin, dated 4-20-2005 and revised through Oct. 13, 2006, drawn at a scale of 1"=100'.
11. "ALTA/ACSM Land Title Survey - Property/Boundary Survey - Lowe's Home Centers, Inc. - Sheet 2 of 2" prepared by Meehan & Goodin, dated 4-20-2005 and revised through October 13, 2006, not drawn to scale.
12. Plans entitled "Proposed Lowe's of Derby - New Haven Avenue (Route 34) - City of Derby, Connecticut", prepared by Langan Engineering & Environmental Services and dated 2/7/07 and revised through 4/17/07 with the following attached drawings:
 - a. "Cover Sheet - Drawing #00.01", not drawn to scale.
 - b. "Site Demolition Plan - Drawing #08.01", drawn at scale of 1"=40'.
 - c. "Site Plan - Drawing #20.01", drawn at a scale of 1"=40'.
 - d. "Grading and Drainage Plan - Drawing #21.01", drawn at a scale of 1"=40'.
 - e. "Soil Erosion and Sediment Control Plan - Drawing #22.01", drawn at a scale of 1"=40'.
 - f. "Soil Erosion and Sediment Control Notes and Details - Drawing #22.02", scale as noted.
 - g. "Site Utility Plan - Drawing #23.01", drawn at a scale of 1"=40'.
 - h. "Landscape Plan - Drawing #24.01", drawn at a scale of 1"=40'.
 - i. "Landscape Notes, Details and Schedule - Drawing #24.02", not drawn to scale.
 - j. "Lighting Plan - Drawing #25.01", drawn at a scale of 1"=40'.
 - k. "Lighting Notes, Details and Schedule - Drawing #25.02", not drawn to scale.
 - l. "Site Detail I - Drawing #27.01", not drawn to scale.
 - m. "Site Details II - Drawing #27.02", not drawn to scale.
 - n. "Site Details III - Drawing #27.03", not drawn to scale.
 - o. "Site Details IV - Drawing #27.04", not drawn to scale.
 - p. "Underground Detention System Notes and Details - Drawing #27.05", not drawn to scale.
 - q. "Typical Cross Section - Drawing #27.06", scale as noted.
 - r. "Sign Concept Plan - Drawing #27.07", drawn at a scale of 1"=2'.
13. "Exterior Color Elevations - Drawing #A-2.0 - Lowe's of Derby, CT", prepared by

Lowe's Engineering and Construction, dated 1/29/07 and drawn to scale of 1"=20'.

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14. "Site Development Criteria Plan - Drawing #SP-1 - Lowe's of Derby, CT", prepared by Lowe's dated 2/6/06 and drawn to a scale of 1"=50'.

15. "Mechanical Equipment Plan - Drawing #M-1 - Lowe's of Derby, CT" prepared by Lowe's dated 1/1/07 scale as noted.

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. Prior to the issuance of a certificate of zoning compliance the applicant shall provide evidence that the utility easements no longer needed have been properly extinguished and that an updated A-2 survey map has been filed on the land records.
3. Prior to any clearing or earthmoving activities, the proper installation of all sediment and erosion control measures indicated on the above referenced plans.
4. Prior to any clearing, earthmoving or demolition, the appropriate areas of the site shall be secured with temporary safety fencing or the permanent fencing shown on the proposed plans.
5. The applicant and/or site contractor shall notify the City and the abutting property owners adjacent to the northwest corner of the site at least one week prior to any rock removal operations.
6. Prior to the issuance of a building permit, the applicant shall provide evidence that a Certificate of Operation has been obtained from the State Traffic Commission (STC). Any changes in the plans following the STC review shall be submitted to the Planning & Zoning Commission's staff.
7. The hours of operation for Mass Excavation and rock crushing operations shall be limited to 7:00 AM to 6:00 PM Monday through Friday and no activities Saturdays, Sundays or legal holidays in accordance with Section 195-118, subsection M.
8. In accordance with Section 195-118 subsection D, the screening, sifting, washing or crushing of material native to the site shall apply to material needed for site purposes only and that all other material shall be removed from the property and disposed of in a suitable manner.
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, excluding building demolition. The amount of the bond shall cover the following improvements:

- a. Site lighting.
- b. Signage.
- c. Storm Drainage Improvements.
- d. Landscaping and site restoration
- e. Off-site roadway improvements.

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

11. An exclusive left turn lane has been added for left-turning vehicles entering the main entrance to the site from Sodom Lane. The lane arrangement signs which currently exist on Sodom Lane shall be shown on the application drawings along with any new signage associated with the proposed improvements.

12. They agree to a pre-construction survey of the property and also would agree not to perform the excavation in the northwest corner of the site using blasting methods as discussed during public hearings.

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

Payment of Bills:

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

A motion to adjourn was made by Mr. Stevens, seconded by Mr. Misiewicz and carried unanimously. The meeting was adjourned at 8:20 p.m.

Attest:

Maryanne DeTullio

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