

***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

Raul Sanchez (Alternate)

Maryanne DeTullio, Clerk

A meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, February 17, 2009 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 Acting Chairman Richard Stankye. Present were David Rogers, David Barboza, Albert Misiewicz, Richard Stankye and Raul Sanchez. Also present were Michael Joyce, Milone & MacBroom, Atty. Joseph Coppola and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

Correspondence - None

Public Portion

Dan Waleski, 21 Elm Street stated that a good portion of the proposed access road from BJ's is on the north side and he was concerned that this was not the best location. He stated that he would like to see access over the railroad tracks.

Steve Shay, 5 Chapel Street stated that he just received notification regarding the application for 155 New Haven Avenue. Mr. Stankye stated that the application will be presented this evening and most likely no action will be taken until next month and he would have an opportunity to comment during the public portion of that meeting.

Approval of Minutes

A motion to table the approval of the 01/20/09 meeting minutes was made by Mr. Rogers, seconded by Mr. Misiewicz and carried unanimously.

Acceptance of Applications

A motion to accept an application for site plan modification from Catholic Cemeteries Association of the Archdiocese of Hartford for access road extension; culvert replacement and flood plain amendment - Chapel Street and Derby Milford Road was

made by Mr. Barboza, seconded by Mr. Misiewicz and carried unanimously.

Mr. Misiewicz moved to hear Item 9b first. The motion was seconded by Mr. Barboza and carried unanimously.

New Business:

9b. Application from Michael Klein for site plan amendment; change of use for 155 New Haven Avenue - B-2 Zone (Application #2009-01-20-2).

John Paul Garcia was present for the applicant. He stated that this property was previously used as a car dealership. It is approximately 1.89 acres in the B-2 Zone. He stated that they will not be altering the site. There will be retail sales on the upper level and assembly of picture frames in the lower level. He submitted a list of abutting property owners and evidence that they were served with notice of this meeting by a state marshal. The site presently is asphalt on top and around the back. There is a screened area of pine trees on the south side along Burtville Avenue. There is a fairly substantial hedge along the west side along Commodore Commons court. The north side is relatively open. The entrance to Commodore Commons is currently barricaded. He stated that some parking will be added in the front with a handicap space. Some trees will be added along the retaining wall on the east side and the entrance along the north property line will be shut off with a row of plantings. He stated that the applicant wishes to use a screened dumpster area in the back. The off-street loading area will be where the service garage was. Mr. Garcia stated that they do not intend to change the exterior much but some cosmetic work is being done. There will be two signs proposed one on the front and one on the side. At some point in the future he plans on going to the ZBA for a variance for a sign on the north side.

Mr. Misiewicz asked about lighting on the signs. Mr. Garcia stated that they are building mounted signs and will be internally lit. Mr. Rogers asked the number of employees and Mr. Klein, 739 Riverside Drive, Orange stated that at this time there are approximately five full time but is hoping to have between 20 and 30. Mr. Stankye stated that the Statement of Use indicates the retail hours will be 8:00 to 9:00 Monday to Saturday. Mr. Klein stated that on Saturday it will be until 5:00 p.m. Mr. Klein also stated that for the past few years most of their business has been done on line and the retail now is an added benefit for them. Mr. Stankye asked about the noise generated from the work in the lower levels. Mr. Klein stated that they use a miter saw for the assembling of the frames. Mr. Stankye asked about truck traffic. Mr. Klein stated that they get approximately two tractor trailer deliveries a month and otherwise it is UPS or FedEx deliveries and pick up.

Mr. Joyce stated that revised plans were submitted after meeting with staff. He stated that the entrance is a wide front open apron and there is really no defined driveway entrance to the site. Mr. Garcia explained that there was uncontrolled access to the site. He explained where the intended entrance points are and the intent is that everyone leaves on the south side. He stated that they do not anticipate a lot of retail traffic. The employees will be parking in the rear. Mr. Klein stated that this should

deter trucks from parking on the lot and makes it almost impossible for trucks to go down the road and back into the parking lot.

Mr. Joyce stated that there are existing lights on the building that are not in conformance with the regulations and any that are to be removed should be identified on the plan. Mr. Garcia stated that no lights will be removed but they will be disconnected. Mr. Joyce stated that one of the items that they spoke of was adding a fence or guard rail to prevent vehicles from going down the hill and Mr. Garcia stated that the plans show a guard rail along the top edge of the bank and the south side of the property. Mr. Garcia stated that the trees and ivy on the south side will be left and the hedge that goes from the north line to the south line. He stated that along the north property line a row of trees will be put in. He stated that the bank is grass and ivy and it is difficult to maintain and relatively stable at this time so they have no intention of making any changes there.

Mr. Garcia stated that they are showing 30 parking spaces because that is the amount required but they do not anticipate having many retail customers.

Mr. Joyce stated that they submitted a letter requesting a waiver of certain site plan regulations. He stated that this is an existing site and there will be no physical changes to the property. No elevations will be done and there is no sense in making them describe the grading and those kinds of things. Mr. Stankye read the letter regarding the site waivers into the record (copy attached).

Mr. Stankye stated that this application will be tabled to the March meeting.

9a. Application for Site Plan Approval from City of Derby for extension of Access road from BJ's (Division Street). (Application #2009-01-20-1).

Fred Clark, DeCarlo & Doll and Sheila O'Malley were present. Sheila O'Malley stated that on behalf of the City of Derby they are seeking approval of a 1800' linear square foot access road into the parcel formerly known as the DOT site. The road will be southerly from Division Street - the back of BJ's and is basically to open up that parcel of land for future development. It is currently 26 to 28 acres and this will open up approximately 18 acres of developable land. She stated that the road is situated in the way that it makes the best sense. It is a long narrow strip of property and at its widest point is 276 feet. As part of the access road they intend to do all of the infrastructure, utilities and improve the Division Street pump station. She stated that the Commission previously approved full city access and rights of access to this property. She also stated that this is also part of a plan developed and submitted to the State as Route 8 access improvements.

Mr. Joyce noted that the Inland Wetlands Agency approved this application at their February meeting.

Mr. Joyce stated that they have been involved for quite some time on the preparation of this application. He stated that other permits are necessary - DEP stream channel
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encroachment line permit and flood management application. Mr. Joyce stated that one is a site plan application and the other is a flood development permit. This property is currently located in a Flood Zone A as shown on the FEMA maps. However, FEMA has issued new maps that will become effective in 2010 and demonstrates that this property is no longer mapped as a special

flood hazard area. He stated that a flood development permit still has to be issued because the change has not occurred yet, but it will not be in a flood zone in 2010.

Mrs. O'Malley stated that this is the best place to put the road is parallel to the railroad tracks away from the Greenway. There is very little room to put it anywhere else.

Mr. Clark stated that they are making accommodations for electric, telephone, gas, water, sewer and storm drains. They are all shown on the plans.

Mr. Stankye read a letter dated 2/13/09 from Attorney Eugene D. Micci stating that he had no objection to the City of Derby application for construction of the access road. It was noted that mailings were sent out on 2/3/09 to abutting property owners.

Mr. Stankey moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Site Plan and Flood Development Permit Application #2009-01-20-01 for properties shown on Derby Assessors Map 7-8 Lot 1 and Map 7-10 Lot 20B subject to the following:

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

1. List of Abutters
2. "Construction of the Access Drive for Commerce Park - Derby, Connecticut - Planning & Zoning Submission", dated January, 2009, prepared for City of Derby, prepared by DeCarlo & Doll, Inc. with the following drawings:
 - a. Title Sheet
 - b. Property Survey - Sheet 1 of 1
 - c. Typical Section - Sheet 2
 - d. Force Main Plan and Profile - Sheets 3, 4
 - e. High Plan - Sheets 5, 7
 - f. Roadway Profile - Sheet 6, 8
 - g. Sedimentation & Erosion Control Plan - Sheet 9, 10
 - h. Cross Sections - Sheet 11-19
 - i. Construction details - Sheet 20, 21, 22
3. Drainage Computations Summary, prepared by DeCarlo & Doll
4. Sequence of Construction and Best Management Practices, prepared by DeCarlo & Doll
5. Existing Derby FEMA Flood Insurance Rate Map, Panel 090075 0002 B, dated July 16, 1991
6. New Haven County Flood Insurance Rate Map, Panel 404 of 635 dated Preliminary September 22, 2008

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With the following stipulated conditions:

1. This application proposes no activity with a FEMA floodway.

2. The subject properties are currently located in a FEMA Flood Zone A as shown on Panel 090075 0002 B of the Derby Flood Insurance Rate Map and therefore any activity proposed with this application in Zone A is subject to the requirements of Article XV of the Derby Zoning Regulations and Chapter 92 of the Charter of the City of Derby regarding Flood Damage Prevention. Since no base flood elevation has been established for Zone A, Chapter 92-4 requires that the City Engineer obtain, review and reasonably utilize any base flood elevation available from a federal, state or other source in order to administer the provisions of this Chapter. In September of 2008, the City of Derby received Preliminary FEMA Flood Insurance Rate Maps (effective spring of 2010) which show the subject properties located outside of a Special Flood Hazard Area and now in Zone X (protected by Provisionally Accredited Levee). Using the latest FEMA information as the best available data, the City Engineer has determined that establishment of a base flood elevation will not be required at this time. However, the following requirements of Chapter 92 of the Charter of the City of Derby will be required in accordance with good engineering practice:

a. Chapter 92-5B - "Water supply and sanitary sewage systems. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the system into floodwaters. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding."

b. Chapter 92-6C - "Non-residential structures located in all A zones may be flood proofed in lieu of being elevated, provided that, together with all attendant utilities and sanitary facilities, the areas of the structures below the required elevation are watertight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic loads and the effects of buoyancy. A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this subsection."

3. Until the proposed FEMA New Haven County Flood Insurance Rate Maps become effective, this property is subject to the requirements of Chapter 92 of the Charter of the City of Derby concerning Flood Damage Prevention.

4. Future development of the property will require additional storm water management improvements which may include but not be limited to a storm water pumping station.

5. This approval shall apply only to the construction of the Access Drive and associated utilities as shown on the supporting documentation. All future development is subject to review and approval by all pertinent regulatory agencies.

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

- a. Execute all easements, acquisitions or agreements required for the project and arrange for the proper filing on the Derby Land Records.
- b. Written confirmation that the deed of the property references the stipulated conditions of this approval, including all easements and agreements.
- c. Arrange for the filing of this approval on the Derby Land Records.
- d. Prior to any clearing or earthmoving activities, the proper installation of all sediment and erosion control measures indicated on the above referenced plans.
- e. Provide documentation that each utility company has authorized the extension of utilities as shown on the drawings.

7. The applicant shall be aware that additional permits from other agencies may be required, including, but not limited to the CT Department of Environmental Protection.

8. Copies of final construction documents along with all environmental documentation required as part of the construction of the Access Drive shall be provided to the Commission for their records.

9. The applicant is hereby notified that Flood Insurance may be required for development on these properties.

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

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

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9c. Request for Bond Reduction - Lowe's

Mr. Joyce stated that this project is complete except for some small items. He stated that it is the recommendation that the performance bond be reduced to a total of \$56,900 and the cash bond in the amount of \$5,000. remain until the site is permanently stabilized and vegetated. Mr. Rogers moved that the performance bond #105 067 801 be reduced to \$7,200. and performance bond #105 067 802 be reduced to \$49,700 and no reduction to the cash bond. The motion was seconded by

Mr. Misiewicz and carried unanimously.

Old Business

(a) Update on Redevelopment Zone

There was nothing new to report at this time.

(b) Update on Enforcement Issues.

It was reported that Atty. Coppola has seven active files under enforcement.

Payment of Bills:

There were no bills presented for payment.

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

Attest:

Maryanne DeTullio

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