

# ***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, August 20, 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, David Rogers, Albert Misiewicz, Richard Stankye, Raul Sanchez and Anthony Szewczyk. Also present were Attorney Joseph Coppola, Corporation Counsel, Ryan McEvoy, Milone and MacBroom, Carlo Sarmiento, Building Official and Maryanne DeTullio, Clerk.

## Additions, Deletions, Corrections to Agenda

Mr. Estwan made a motion to amend the agenda and move Item 8, Acceptance of Applications to be Item 12 and Item 12 become Item 13; Item 13 become Item 14 and Item 14 become Item 15. The motion was seconded by Mr. Stankye and carried unanimously.

## Correspondence

Chm. Estwan stated that a letter was received from Rick Dunne, Valley Council of Governments regarding an application filed by the Town of Woodbridge and referred to the City of Derby for comment. Mr. Estwan asked Corporation Counsel and the City Engineer to review and respond to Rick Dunne on behalf of the Commission.

## Public Portion

There was no one from the public wishing to speak.

## Approval of Minutes

A motion to table the approval of the June 16, 2013 meeting was made by Mr. Estwan, seconded by Mr. Stankye and carried unanimously.

Public Hearings

(a) Application from Frank Pepe for a two lot subdivision at Ida Avenue and Albert Avenue – R-2 Zone (Application #2013-05-21-01) – Continued from 06/18/13

Fred D'Amico was present for the applicant and stated that since the last meeting the plans have been revised. The grading has been changed on Lot 2 and they were able to move the location of the building and shorten the length of the driveway. He stated that the Fire Marshal had concerns with the length of the driveway and that driveway will now be shorter than Lot 1. He stated that there are now only about 900 cubic yards of fill required. He stated that in the backyard there is a 10 foot fill at the retaining wall and at the back of the garage about a 6 foot fill. He stated that a lot of disturbance is eliminated. He stated that there was a neighbor that had concerns with runoff onto her property. Mr. D'Amico stated that the runoff will enter the brook before getting to the neighboring property. There is no activity that would affect that area. Mr. D'Amico stated that there are existing 22 lots on the permanent cul-de-sac, but right now there are actually 20 lots. The lot on the corner of George and Ida even though the driveway comes out to Ida it has access to George. He stated that they are still asking for one additional lot. He stated that when the previous subdivision was approved this was deemed not a building lot. The applicant decided at that time to divide the rest of the property and keep that area for future development so it was just labeled not a building lot. The Commission did not deem it not a building lot; the applicant was not asking for it to be part of the original subdivision. Mr. D'Amico stated that they have changed the grading plan and are reducing the activity which is better for the neighborhood.

Mr. Estwan read a letter from the Fire Marshal dated July 12, 2013 regarding the revised plans. The letter indicated that there is no problem with fire accessibility or protection.

Mr. Szewczyk stated that it appears that they have left the natural contours alone as much as possible, which he felt was a plus. Mr. Misiewicz asked if there were any stipulations placed on the two large lots when originally approved. Mr. Estwan stated that there were none.

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

Attorney Michael Bologna, representing Detention Basin LLC stated that there was no Statement of Use submitted with the application. He also noted that the flag lot must comply with the regulations and the applicant needs to provide proof how it complies. The applicant also needs to proof that the subdivision is designed to adequately provide for watercourses, wetlands and stormwater runoff. He stated that they have stated that the runoff will run directly into a watercourse. He also stated that the regulations require a minimum access strip for a flag lot of 120' and this does not. He also stated that they are asking for an extra lot on a dead end street. He stated that this is a special exception application and they have not shown that the proposed subdivision complies with the zoning regulations.

Mr. D'Amico stated that they are trying to show that the drainage will eventually get to the brook. There is a drainage/detention system designed that the water does not just go into the brook. He stated that the drainage has been reviewed by the city engineer. He also noted that the Commission has the discretion to create the extra lot and he did not feel that one more lot would create any health or safety issues. He stated that the regulations for flag lot are very confusing and he felt that they meet the regulations.

Ryan McEvoy stated that he reviewed the revised plans and there are still a lot of the same issues. He stated that there is the number of lots on Ida Avenue even though there is one lot that has frontage on two streets. He stated that they did a good job with moving the building but they will still need a substantial amount of fill to construct the house on Lot 2. Mr. McEvoy stated that he still has some questions with the calculations but they would still have to come back with individual plans for each lot if this is approved and provide more details.

Frank Pepe, applicant, stated that with the proper galley system and sloping there will be no problems with runoff. He stated that there has been no problems with lots that were developed in 2002.

Mr. Estwan stated that he was concerned with the amount of fill that will be required. Mr. D'Amico stated that the amount of fill will be less than 1000 cubic yards and would only be about 20 truck loads. Mr. McEvoy stated that there would be probably 40 to 50 truck loads needed. Mr. Stankye asked about the design of the retaining wall. Mr. D'Amico stated that the design would have to be approved by the city engineer and building official. He also stated that there could be a bond placed to make sure that it is constructed properly. Mr. Stankye asked how far between the two walls and Mr. D'Amico stated that it is approximately 10 feet. Mr. Stankye asked the grading at the wall and Mr. D'Amico stated that it would be a 2 to 1 slope.

Mr. Estwan stated that the Commission is dealing with subdivision regulations that go back to 1979 and he has submitted requests for funding to update the regulations but has never gotten the approval to do so. Mr. Estwan asked about the size of the lots and Mr. D'Amico stated that both lots are large – Lot 1 is 60,000 s.f. and Lot 2 is 66,000 s.f. Mr. Sanchez asked the frontage on each lot. Mr. D'Amico stated that Lot 1 will have 50' frontage and Lot 2 is 129'.

Atty. Michael Bologna stated that there will be over 40 truck loads for the fill. He also noted that the regulations state that there will not be more than 20 lots on a cul-de-sac. They could get a variance from ZBA if they feel that there is a hardship. He also stated that there are regulations regarding the size of the lots and size of the accessway. Mr. D'Amico stated that they feel that it meets the minimum lot frontage required. Mr. McEvoy noted that the driveway exceeds 120' in length.

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

(b) Application from Town Fair Tire Centers of Connecticut, Inc. for Zone Change for 480 New Haven Avenue (rear) from R-3 to B-1 Zone – Application #2013-05-21-02 – continued from 06/18/13

(c) Application for Special Exception Use and Site Plan Approval from Town Fair Tire Centers of Connecticut, Inc. for 480 New Haven Avenue for the retail sale of tires and wheels and the installation/servicing of tires, wheels and alignment – Application #2013-05-21-03 – continued from 06/18/13

Atty. Dominick Thomas, 315 Main Street, Derby was present for the applicant. He stated that this is continuation of the public hearing. He also stated that they received approval from Inland-Wetlands Agency and submitted a copy of the minutes from the August 14, 2013 approving the permit for the regulated activity. He stated that they have addressed the zone change and also that they will be maintaining the detention basin to the rear. The discharge pipe from that basin was not subject to an easement. An easement will now be given to the City of Derby.

Jim Rotundo, Engineer stated that the plans have been revised addressing concerns in the Milone & MacBroom review letter and the Fire Marshal's comments. He stated that several comments were drainage related and a stormwater management report was submitted to Mr. McEvoy with calculations. They are reducing flows to New Haven Avenue and Two Mile Brook to pre-development condition. He stated that they added some additional information regarding the plantings and the buffer strip. They also reconfigured the parking area and removed several spaces. Several spaces have been removed along the front of the building and two in the back. The access driveway is now accessed right from the access drive and has been widened to 15' at the request of the Fire Marshal. It will now be a bituminous concrete surface. There will now be one-way circulation from the front to the service bays, this allowed them to narrow some of the driveways along the front and allowing for a wider buffer to Two Mile Brook. Mr. Rotundo stated that they also lowered the grade along the front of the building and they will now not have to put fill within the flood zone. He stated that they also proposed a small retaining wall along that area which is no longer necessary. They are now proposing guardrails and a split rail fence for protection to vehicles and pedestrians. He stated that they have revised the soil and erosion control plan based on recommendations from the city engineer. A photometric study was prepared for the site which was reviewed by Mr. McEvoy and he presented copies of that to the Commission. Mr. Rotundo stated that revised drawings were done and submitted.

Mr. Estwan asked for any public comment and there was none.

Mr. McEvoy stated that there are some minor recommendations for the storm drainage system and location of access strips to the detention basin and width of the storm drainage easement for the outlet pipe. Atty. Thomas stated that they will be willing to submit those.

A motion to close both public hearings was made by Mr. Stankye, seconded by Mr. Szewczyk and carried unanimously.

New Business

(a) Discussion and possible action – Application from Frank Pepe for a two lot subdivision at Ida Avenue and Albert Avenue – R-2 Zone (Application #2013-05-21-01).

Mr. Estwan stated that some additional information needs to be supplied to the city engineer. There was no action taken on the application.

(b) Discussion and possible action - Application from Town Fair Tire Centers of Connecticut, Inc. for Zone Change for 480 New Haven Avenue (rear) from R-3 to B-1 Zone – Application #2013-05-21-02.

Mr. Estwan commended the applicant on the outstanding job done with this project. He stated that the listened to concerns with the neighbors and the City and they have been a great neighbor in the City.

Mr. Estwan moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission finds the following:

1. The applicant has demonstrated to the Commission the proposed zone change is harmonious with the Plan of Conservation and Development.
2. That the Zone Change and subsequent lot line revision will result in the zone district lines to follow lot lines in conformance with the intent of Section 195-24 of the Zoning Regulations.

Therefore, the Derby Planning and Zoning Commission hereby approves the Zone Change Application for Town Fair Tire Centers of Connecticut, LLC on a portion of property shown on Derby Assessors Map 4-3, Lot 37A subject to the following conditions:

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

1. Plans entitled “Site Development Plan, Prepared for Town Fair Tire, 480 New Haven Avenue, Derby, Connecticut”, prepared by Godfrey Hoffman Associates, LLC, dated May 21, 2013, revised to July 12, 2013 (unless otherwise noted) with the following attached drawings:
  - a. “Sheet SU-1.0, Property and Topographic Survey,” drawn at a scale of 1”=20’, dated January 11, 1012
  - b. “Sheet SU-1.1, 500 Foot Radius Map,” drawn at a scale of 1” = 100’
  - c. “Sheet SU-1.2, Zone Revision Map,” drawn at a scale of 1” = 50’
  - d. “Sheet SU-1.3, Lot Line Revision Map,” drawn at a scale of 1” = 50’
  - e. “Sheet C-1.0, Overall Site Plan,” drawn at a scale of 1” = 20’
  - f. “Sheet C-1.1, Site Plan,” drawn at a scale of 1” = 20’
  - g. “Sheet C-2.0, Grading and Utility Plan,” drawn at a scale of 1” = 20’

- h. "Sheet C-3.0, Soil Erosion and Sediment Control Plan", drawn at a scale of 1" = 20'
  - i. "Sheet C-3.1, Soil Erosion and Sediment Control Details," not drawn to scale
  - j. "Sheet C-4.0, Details," not drawn to scale
  - k. "Sheet C-4.1, Details," not drawn to scale
  - l. "Sheet C-5.0, Photometric Plan, dated 8/12/13, drawn at a scale of 1" = 20'
2. Application package including a list of adjacent property owners.
  3. Purpose and Description of Proposed Activities.
  4. Report entitled "Site Engineering and Stormwater Management Report, Proposed Town Fair Tier, Located at 480 New Haven Avenue, Derby, CT", dated March 15, 2013, prepared by Godfrey-Hoffman Associates, LLC.
  5. Plan entitled "Town Fair Tire Center, 480 New Haven Avenue, Derby, Connecticut, Floor Plan and Elevations", Scale 1/8" = 1'-0", dated 4/3/13, revised to 6/11/13, prepared by Milliken Associates.
  6. Letter from Milone and MacBroom, Inc., dated June 18, 2013
  7. Letter from Godfrey Hoffman Associates, LLC dated July 12, 2013.
  8. Letter from Derby Fire Marshal dated June 18, 2013.
  9. Letter from Godfrey Hoffman Associates, LLC dated August 6, 2013.
  10. Sample photograph of Tire Cage.
  11. Plan entitled "Site Cross Section, Prepared for Town Fair Tire, 480 New Haven Avenue, Derby, Connecticut", Scale 1" = 30', dated 5/21/13, prepared by Godfrey Hoffman Associates, LLC.
  12. Letter from Milone and MacBroom, Inc. to Valley Council of Governments dated May 28, 2013.
  13. Letter from Milone and MacBroom, Inc. to South Central Regional Council of Governments dated May 28, 2013.
  14. Letter from South Central Regional Planning Commission dated June 17, 2013.
  15. Minutes of the Regular Meeting, VCOG Planning Commission dated May 28, 2013.

With the following stipulated conditions:

1. The Zone Change shall not become effective until the following has been completed:

The applicant shall submit an A-2 property boundary survey for Lot 37 on Assessor's Map 4-3 which appends the portion of Lot 37A on Assessor's Map 4-3 subject to the zone change application. This survey and associated legal documents shall be submitted to the City Engineer, Zoning Enforcement Officer, and Corporation Counsel for review and approval, and then filed on the Derby Land Records.

2. The Commission's decision to grant this approval makes no warranties or representations, either express or implied, that future development of this property will necessarily be permitted.

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

Mr. Estwan then amended his motion to include stipulated condition No. 3 – The effective date of the zone change shall be September 10, 2013. Mr. Stankye seconded the amendment to the motion and it was carried unanimously.

(c) Discussion and possible action – Application for Special Exception Use and Site Plan Approval from Town Fair Tire Centers of Connecticut, Inc. for 480 New Haven Avenue for the retail sale of tires and wheels and the installation/servicing of tires, wheels and alignment – Application #2013-05-21-03.

Mr. Estwan moved that pursuant to Section 195-48 of the Derby Zoning Regulations (the Regulations), 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 F).
2. The application proposes to demolish the existing buildings on the parcel, and construct a new commercial building for Town Fair Tire.
3. The applicant's engineer has produced documentation demonstrating that there will be no increases in runoff and is therefore in compliance with the Regulations.
4. The site plan improvements contain a detailed sediment and erosion control plan that is in compliance with the Regulations.

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 Use for Town Fair Tire Centers of Connecticut, LLC on property shown on Derby Assessors Map 4-3, Lot 37 subject to the following conditions:

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

- a. "Sheet SU-1.0, Property and Topographic Survey," drawn at a scale of 1"=20', dated January 11, 1012
  - b. "Sheet SU-1.1, 500 Foot Radius Map," drawn at a scale of 1" = 100'
  - c. "Sheet SU-1.2, Zone Revision Map," drawn at a scale of 1" = 50'
  - d. "Sheet SU-1.3, Lot Line Revision Map," drawn at a scale of 1" = 50'
  - e. "Sheet C-1.0, Overall Site Plan," drawn at a scale of 1" = 20'
  - f. "Sheet C-1.1, Site Plan," drawn at a scale of 1" = 20'
  - g. "Sheet C-2.0, Grading and Utility Plan," drawn at a scale of 1" = 20'
  - h. "Sheet C-3.0, Soil Erosion and Sediment Control Plan", drawn at a scale of 1" = 20'
  - i. "Sheet C-3.1, Soil Erosion and Sediment Control Details," not drawn to scale
  - j. "Sheet C-4.0, Details," not drawn to scale
  - k. "Sheet C-4.1, Details," not drawn to scale
  - l. "Sheet C-5.0, Photometric Plan, dated 8/12/13, drawn at a scale of 1" = 20'
2. Application package including a list of adjacent property owners.
  3. Purpose and Description of Proposed Activities.
  4. Report entitled "Site Engineering and Stormwater Management Report, Proposed Town Fair Tire, Located at 480 New Haven Avenue, Derby, CT", dated March 15, 2013, prepared by Godfrey-Hoffman Associates, LLC.
  5. Plan entitled "Town Fair Tire Center, 480 New Haven Avenue, Derby, Connecticut, Floor Plan and Elevations", Scale 1/8" = 1'-0", dated 4/3/13, revised to 6/11/13, prepared by Milliken Associates.
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  8. Letter from Derby Fire Marshal dated June 18, 2013.
  9. Letter from Godfrey Hoffman Associates, LLC dated August 6, 2013.
  10. Sample photograph of Tire Cage.
  11. Plan entitled "Site Cross Section, Prepared for Town Fair Tire, 480 New Haven Avenue, Derby, Connecticut", Scale 1" = 30', dated 5/21/13, prepared by Godfrey Hoffman Associates, LLC.

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 Lot Line Revision Map and associated easements shall be reviewed for compliance by the Zoning Enforcement Officer, the City Engineer and Corporation Counsel prior to filing on the Derby Land Records. The map shall be revised to include the following:
  - a. The access easement to the rear parcel shall be centered on the parking lot driveway and not include the proposed parking spaces so that the easement is not obstructed by parked cars.
  - b. The drainage easement shall be widened to 20'. We acknowledge that the relocated detention basin outlet pipe need not be centered within a 20' easement.
  - c. Both the access easement and the drainage easement shall include rights in favor of the City of Derby.
  - d. The plans shall include the net lot area after reductions for the utility and access easement to demonstrate that there is a minimum of 30,000 square feet in conformance with the Regulations.
3. The applicant's engineer shall submit revised calculations with the existing condition including a Curve Number of 85 for the existing gravel surfaces.
4. The plans shall be revised to include the following:
  - a. The pipe slope from MH#1 to the retention chambers set to a minimum slope of 0.50%.
  - b. Access covers and or inspection ports shall be installed over the retention structures for future maintenance.
  - c. The dumpster enclosure shall be constructed of wooden fencing, stone or brick wall, or evergreen trees or shrubs at least six feet high at the time of planting in accordance with Section 195.39.J.(2) of the Regulations.
5. Relocation of the existing 24" detention basin outlet pipe in installation of the underground detention area shall be coordinated with and performed in the presence of the city engineer or other duly authorized city official.
6. All roof drains shall be directed to the underground stormwater detention area.
7. The appearance of the tire cage shall be substantially similar to the appearance of the tire cage shown in referenced document #10.
8. The applicant shall obtain approval from the Derby Water Pollution Control Authority for the proposed sanitary sewer connections.
9. Activity within the State Right of Way will require approval from the Connecticut DOT.

10. Applicant shall furnish the City with an Improvement Location Survey of the property depicting the completed site including all site features including the proposed changes.
11. All site lighting and site signage shall be reviewed by the Zoning Enforcement Officer for compliance with the Regulations.
12. All handicapped parking shall be provided in accordance with the CT State Building Code.
13. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission staff for review.
14. 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. Stankye and carried unanimously.

(d) Informal Discussion – Regional Water Authority – Water Storage Tank Project.

There was no one in attendance regarding this matter and no discussion took place.

#### Old Business

(a) Discussion – Electronic Signs

Mr. McEvoy stated that he drafted a zone text change for the sign regulation. He stated that he took into account comments regarding allowing electronic message display signs, LED lights limited to the P Zone. This would require a special exception and animated signs would still be prohibited. He stated that the amount of time for the display is something that could be further discussed. Mr. Estwan stated that this was done based on discussions that the Commission had with the Board of Education. He stated that this gives the Commission more control over these types of signs. Mr. Szweczyk asked why it was not included in the downtown area. Mr. Estwan stated that it was not the intent to open it up all over town. There will be a public hearing on this next month.

(b) Discussion – Flag Lots

Mr. McEvoy stated that he went through the regulations and his first goal as to clean up them up. He removed the special exception requirement. This application will also require a public hearing.

(c) Update on Redevelopment Zone

Atty. Coppola stated that there was no quorum present for the meeting. He stated that a port was submitted by Sheila O'Malley, Economic Development Director and should be available on line.

Acceptance of Applications

Mr. Estwan stated that an application was submitted from the City of Derby Planning & Zoning Commission for a zone text change for Article VII and Article XI. A motion to accept and schedule for public hearing at the September 17, 2013 meeting was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously.

Executive Session

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

Mr. Stankye moved that the Commission go into Executive Session to discussion enforcement issues and pending litigation and have Atty. Coppola, Mr. McEvoy and Mr. Sarmiento attend. The motion was seconded by Mr. Szewczyk and carried unanimously. The Commission went into Executive Session at 8:15 p.m.

Mr. Estwan moved that the Commission come out of Executive Session and resume the regular meeting at 8:30 p.m. The motion was seconded by Mr. Stankye and carried unanimously.

Payment of Bills

Mr. Stankye moved to approve the payment of the following bills from Moline & MacBroom – Invoice Nos. 64562, 64563, 64564, 64565 and 64566. The motion was seconded by Mr. Rogers and carried unanimously.

A motion to adjourn was made by Mr. Estwan, seconded by Mr. Misiewicz and carried unanimously. The meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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