

Department of Planning and Zoning

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: July 19, 2016
RE: ZP13-0650CA/MA 110 Riverside Avenue

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

File: ZP13-0650CA/MA

Location: 110 Riverside Avenue

Zone: Neighborhood Activity Center,
Riverside Corridor (NAC-R) **Ward:** 1

Date application accepted: May 26, 2016

Applicant/ Owner: Sisters and Brothers
Investment Group / Joe Handy

Request: 2nd request for a one-year time extension for ZP13-0650CA/MA: Demolish existing c. 1935 former auto repair structure; construct new 4 story 57 unit apartment building with underground parking on 1.22 acre site. Height bonus exercised by providing Senior Housing. Approved with amended conditions, July 2, 2013.



Background:

- Application filed for Act 250 June 30, 2015. Per **Section 3.2.9 (f), Exception to Permit Time Limits:** *Except for projects subject to additional state or federal permitting jurisdiction, or which have been appealed to Vermont Environmental Court pursuant to the requirements of Article 12, there shall be no exceptions to the time limits specified in Section 3.2.9 (d) and (e) unless longer or shorter time limits are specifically imposed as permit conditions of approval by the DRB at the time of approval.*

For projects subject to additional state or federal permitting jurisdiction, the date of decision shall be deemed to be the latest date of decision of the state or federal permitting authority.

The application for Act 250 review tolled the approval date.

- **ZP13-0650CA.MA;** One Year Time Extension approved by DRB June 3, 2014.
- **ZP13-0650CA.MA;** Demolish existing c. 1935 former auto repair structure; construct new 4 story 57 unit apartment building with underground parking on 1.22 acre site. Height

bonus exercised by providing Senior Housing. Approved with amended conditions, July 2, 2013.

- **.ZP 13-0129; Sketch Plan** review of project. Reviewed by DRB September 18, 2012.
- **Zoning Permit 05-065SN**; 4' x 6' parallel sign for M & H Auto. Approved August 2004.
- **Zoning Permit 04-314**; Increase number of display cars from 25 to 45 and decrease 10 spaces for repair business to 6 spaces. Approved January 2004.
- **Zoning Permit 01-318 / COA 097-029**; Installation of a new nonilluminatd parallel sign over the entry of the existing used car sales establishment within the existing commercial complex. No change in use. Approved February 2001.
- **Zoning Permit 99-362**; Change of use from vacant commercial to auto and light truck repairs. No exterior changes proposed to the structure. Site currently contains a used auto dealer. Approved March 1999.
- **Zoning Permit 99-419 / COA 097-029B**; Installation of a nonilluminated freestanding sign for the existing auto and light truck repair facility. Approved April 1999.
- **Zoning Permit 99-570 / COA 097-029C**; Installation of two signs for the existing auto repair facility. Approved June 1999.
- **Zoning Permit 98-311 / COA 097-029**; replacement of existing sign faces at existing auto sales building. Approved January 1998.
- **Zoning Permit 98-310 / COA 097-029B**; Change of use from retail (see COA 97-029) to used car sales. Maximum outdoor storage of 25 cars. Approved January 1998.
- **Zoning Permit 97-460 / COA 097-029A**; Partial demolition of the existing structure and parking area to facilitate improvements included in COA 97-029. Approved May 1997.
- **Zoning Permit 97-274 / 097-029**; Renovation to the existing commercial complex, addition to create multiple retail storefronts. 1987 net new square feet. Approved January 1997.
- **Zoning Permit 88-031**; one internally illuminated aluminum sign. Approved August 1988.
- **Zoning Permit COA 87-199**; Convert building to auto body shop; minor exterior work. Approved January 1988.
- **Zoning Permit 87-746 / COA 87-199A**; install one sign. Approved April 1988.
- **Zoning Permit 85-491**; construct a chain fence 4' to run along the west boundary of the property. Approved October 1985.
- **Zoning Permit 84-446 / COA 84-118**; Remove front wall of plate glass and replace with 2 x 6 frame, insulate and finish exterior with vinyl siding. Install thermopane picture window. Approved September 1984.
- **Zoning Permit 84-328 / COA 84-088**; construct 30 x 30' one story building to be used as a repair shop to replace a building of the same size and use that was destroyed by fire 4 months previous. Approved July 1984.

- **Zoning Permit 82-546**; parallel sign for “First Quality Carpets.” Approved December 1982.
- **Zoning Permit 82-525**; To establish a floor covering and home decoration store. Prior use was a furniture store. Approved December 1982.
- **Zoning Permit 82-344 / COA 82-75**; Change pitch of roof. July 1982.
- **Zoning Permit 82-337 / COA 82-73**; establish use as a building supply and material retail outlet – dealing in hot tubs and plumbing fixtures for residential installation. 1000 sq ft devoted to retail use. Approved July 1982.
- **Zoning Permit 81-292**; Change of use from automobile retail business into a furniture retail business. No structural alterations. Approved December 1980.
- **Zoning Permit 78-162**; Used car sales, service and repair. Build partitions and 3 phase electric power in order to create car painting stalls in existing large garage. No additional coverage. Paint shop presently exists in the small garage at 110 Riverside. Issued October 1978.
- **Zoning Permit 75-891?** ; Erect a pylon sign flat against the building. May 1975.
- **Zoning Permit**, erect a 30’ x 60’ addition on the north side of the existing garage and remodel the front of the showroom. Issued August 1971.

Overview: The applicant has received approval in 2013 from the DRB to raze all buildings on this corner site and develop a multi-story residential building (original request at Sketch Plan Review was for 64-66 units; now set at 57) with 61 parking spaces, 49 of those provided under the building and 12 more on a small surface lot. 25% of the units (14) are intended to be low to moderate income Senior Housing to qualify for the additional height bonus. The applicant asserted in 2014 that time requirements waiting for State permits (Waste Water, Act 250), the project was not likely to meet the commencement/completion dates provided for within the approval. They applied for and received a one-year time extension from the DRB in 2014. In 2015, the applicant demonstrated that they were still under state jurisdictional review (Act 250) and therefore their approval date could be tolled to the date of that decision. Documentation provided however demonstrated that they did not apply for their project until late June 2015, nearly two years after receiving initial project approval from the DRB.

This application again requests another one-year time extension to begin the project.

Recommendation: The applicant has been afforded one time extension by the DRB, and one by demonstrating that the project is still under Act 250 review. Although there is precedent for extending up to three time extensions for DRB approved projects, there is concern that the applicant has not been timely in securing other necessary permits and may, in fact, be profiting by delays afforded through Section 3.2.9 (f). It is a full three years since the project was initially reviewed and approved by the DRB. If the DRB feels confident that this time extension will reasonably assure the commencement and completion of the project, then approval is recommended subject to the following findings and conditions:

I. Findings

Section 3.2.9 Zoning Permits

(f) Exceptions to Permit Time Limits:

Except for projects subject to additional state or federal permitting jurisdiction, or which have been appealed to Vermont Environmental Court pursuant to the requirements of Article 12, there shall be no exceptions to the time limits specified in Section 3.2.9 (D) and unless longer or shorter time limits are specifically imposed as permit conditions of approval by the DRB at the time of approval.

For projects subject to additional state or federal permitting jurisdiction, the date of decision shall be deemed to be the latest date of decision of the state or federal permitting authority.

The applicant has submitted communication that the Act 250 Draft permit was issued on 7/9/2015 and is pending issuance of the water supply construction permit. The Water Supply Construction Permit was submitted on 6/30/2015 to the Agency of Natural Resources Drinking Water and Groundwater Protection Division. Additional design work was required. He reports that the application is still under technical review by the ANR. This information would meet exceptions provided in the above standard. **Affirmative finding.**

II. Recommended Conditions of Approval

1. The applicant shall demonstrate persistence and timeliness in identifying and securing all required state and federal permits for construction of this project. The project must commence upon securement of said permits, and to the approved plans of July 2, 2013.
2. All conditions of ZP13-0650CA/MA not herein altered shall remain in effect.
3. No other time extensions shall be considered by the DRB.
4. Standard Permit Conditions 1-15.

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