

**MINUTES
CITY OF DARIEN
MUNICIPAL SERVICES COMMITTEE
SPECIAL MEETING
October 30, 2023**

PRESENT: Alderman Thomas Belczak-Chairman, Alderman Ted Schauer, Alderman Ralph Stompanato

ABSENT: None

OTHERS: Mr. Dan Gombac – Director, Mr. Jordan Yanke – City Planner, Mr. John Murphey – City Attorney

Establish Quorum

Chairperson Thomas Belczak called the meeting to order at 6:02 p.m. at the City of Darien City Hall, 1702 Plainfield Road, Darien, Illinois. Chairperson Belczak declared a quorum present.

New Business

- a. **PZC2023-08 8325 Lemont Road – Gerber Collision Special Use request pursuant to Section 5A-8-3-4 of the Zoning Ordinance. The petition specifically requests to allow conversion of a vacant building (former CVS Pharmacy) to an auto collision, repair, and service center. Property is located within the B-2 Community Shopping Center Business District.**

Mr. Jordan Yanke, City Planner, reported that this is a Special Use request for the property located at 8325 Lemont Road. He reported that the existing building was a CVS Pharmacy and that the petitioner has proposed a conversion of the existing, vacant building to an auto collision, repair, and service center. He reported that City's zoning ordinance lists the proposed use as a garage for storage, repair, and servicing of motor vehicles, including body repair, painting, and engine rebuilding and deems it as a special use within the property's zoning designation.

Mr. Yanke reported that the project involves minimal site work, as there are no proposed changes to the building footprint or the access drives to the site and that most notable change is a new 6' wall/fence to enclose an existing paved area on the west side of the property between Lemont Road and the building per staff's recommendation so vehicles dropped off in need of repair can be parked in an area not visible to the public eye. He

stated that the wall/fence enclosure should be clarified as a condition of approval for the special use as an update on the case and something stipulated in the meeting packet.

Mr. Dan Gombac, Director reported on the 13,500 square foot property and what other businesses were proposed for that location. He explained that the City looked at the site for sporting venues, restaurants, dollar store, hardware store and that financially, physically and after looking at incentives was not possible. He reported that parking is also an obstacle and that banks are not loaning money to restaurants and that as much as the City and the residents would love to see a Trader Joes, they will not come to Darien.

Mr. Gombac reported that the City has looked at many options for the site and that medical facilities are more interested in strip malls with more foot traffic. He reported that a blood bank and a DIY store was also considered but that staff felt it was not the best use for the property.

Mr. Gombac reported that staff also researched indoor sports for pickleball, tennis, etc. and that the ceiling is an issue.

Chairperson Tom Belczak asked the petitioner to provide an overview of the proposal.

Mr. Jim Olguin, Attorney representing Gerber Collision and Glass introduced Ms. Kim Miller, Director, Environmental, Health and Safety, The Boyd Group to address the environmental concerns.

Ms. Kim Milller, Director, Environmental, Health and Safety, The Boyd Group gave a brief overview of her experience. She stated that Gerber operates 906 stores in the U.S. and Canada with three decades of experience.

Ms. Miller provided an overview of the services noting that all the coating rooms are all the same with water-based paints all low VOCs with minimal odor and very safe. She stated that there are small amounts of VOCs for the clear coat but they are confident that all applications are safe. Ms. Miller stated that they have never received an odor complaint.

Ms. Miller explained the painting process stating that the spraying is done indoors and regulated by the State of Illinois. She stated that the filters are changed regularly using high tech materials which minimizes airborne particulates. She further stated that the requirements are regulated with strict conditions and that they are confident with safety.

Ms. Miller stated that the parking lot is similar to any other parking lot and that there are no water emissions except for washing cars.

Mr. Gombac asked the petitioner for an explanation of the VOCs exhausted from building.

Ms. Miller stated that because the VOCs are so very low that any emissions are extremely low and non-detectable.

Chairperson Belczak questioned if the IL EPA has guidelines.

Ms. Miller reported that the IL EPA has strict guidelines and that each state checks and maintains strict records including reporting emissions. She stated that the State of Illinois is no different and they check regularly. She further stated that they do oil and antifreeze work occasionally but that there is a national program for waste disposal and that the waste is so small that they are not subject to regulation. Ms. Miller stated that there is however corporate policy on how it is disposed through drums and maintained on a dashboard for paint using a third party who requires logs. She stated that Gerber's regulatory inspection goes above and beyond.

Alderman Ted Schauer questioned if there is a difference between Gerber and a mom-and-pop shop.

Ms. Miller stated that some smaller shops may use higher VOCs.

Mr. Olguin reported on the Special Use permit and the understanding of the meaning. He stated that it is important to understand that it is a legislative conclusion by the City similar to a permitted use and that the criteria impact on the adjacent properties has no effect on the property owners or the public.

Mr. Olguin stated Gerber's proposal is a multimillion-dollar project and that they would not invest the money if there was not a demand. He stated that computer programming and a team was used to make sure there is a market for these services and that they are confident that this will benefit the community. He further stated that they do not believe they are taking business from someone else.

Mr. Olguin referenced the impact to traffic and stated that there is significantly less traffic than CVS with 49% less during the peak traffic in the morning and 80% less peak traffic in the evening and no access point to 83rd Court nor impact to the residents and the apartments to the east.

Mr. Olguin stated that the hours of operation will be 8am – 5pm Monday through Friday and no evenings or weekends with minimal noise. He stated that the City has noise requirements and that they are not asking for any deviation and that they will meet the noise requirements of the City.

Mr. Olguin provided a photo showing the new development and that they will be using the existing building with mature extensive landscaping. He stated that that there are no visual

effects to the adjacent properties and no deviations from an odor standpoint and no impact on any of the nearby properties.

Mr. John Murphey, City Attorney explained Special Use noting that any zoning ordinance is a legislative judgment and that courts refer to a Special Use as presumptively permissible and that something special has to make it special. He stated that there is a common misconception of the term "necessary" for the public convenience and that does not mean "absolutely necessary".

Alderman Ralph Stompanato had concern for visible damaged vehicles as well as the recycle bin outdoors.

Mr. Olguin stated that all the work is done on the interior and that Gerber gets the car in and out in a timely manner.

Ms. Kennedy Mcuen, Gerber Collision & Glass, stated that some of the larger shops the recycle bin is stored outside. She stated that this location is going to be a smaller shop and the stored indoors and more contained.

Mr. Mike Peirce, Storebuild LLC stated that Gerber has over 900 stores and that Gerber buys out smaller shops so some visually do not look the same. He displayed a photo of a new site in Huntley stating that it was built from the ground up.

Chairperson Belczak questioned the doors and their purpose.

Mr. Peirce stated that vehicles will drop off and estimating will occur on the north side of the building via a new garage door to be installed. He stated that two additional doors will be added on the west side of the building (off the screened parking area) for cars in need of repair to enter and exit the building. He further stated that the employee parking and finished cars parking lot will be in front of the store facing 83rd Street (main parking lot in front of storefront) and the screened in cars that need repair will be on the west side of the building (by the old CVS drive thru) screened by both the existing evergreens and other landscaped areas, berm, and a fence to be installed.

Chairperson Belczak opened the meeting to anyone wishing to present public comment. He stated that all correspondence submitted was received and read.

Mr. Brian Liedtke stated that he submitted correspondence and that this proposal is not about Gerber but about less traffic and what is best for the community. He stated that there are over 50 uses in the B-2 District and Gerber is not one of them. Mr. Liedtke stated that there are already two local body shops and that he has gone through the financial plan. He stated that the acquisition strategy is to dominate the market.

Mr. Liedtke stated that he requested the records and questioned how serious the City was with other proposals and that the comments and the testimony prove that the community has no interest in this proposal. He further stated that the petitioner's response was lazily prepared and that the City meetings are designed just to check the box.

Mr. Liedtke stated that many B-2 uses could work and very few were discussed. He stated that the Code for parking is not an issue nor is the ceiling height for a golf simulator, Whirly ball or Go Cart business. He questioned why the City is not following the mission statement and providing incentives to attract better businesses and that Darien can do better. Mr. Liedtke stated that there is no need to rush this.

Ms. Elizabeth Uribe stated that she disagreed with the attorneys and that the Darien Code as written is fine. She stated that it is the City's responsibility to assess if the appropriate use and that an auto repair is not one of those. She further stated that the petitioner's application was done in great haste and no information provided and that they do not meeting the criteria for special use.

Ms. Uribe stated that she is not aware of additional demand for another collision business in Darien and noted that Gerber has a D+ rating and not viewed with a good reputation. She stated that the petitioner provided mere conclusions and no actual data.

Ms. Uribe stated that she appreciated the presentation by the environmental specialist but that this proposal is about our neighbors, schools, homes, lakes, etc. and real people. She stated that there is more danger than they would like us to believe with real safety and traffic concerns.

Ms. Urbe referenced the hazardous waste pick up and that it was very close to a residence and that this proposal absolutely does not fit in the character of the area, doesn't fit in the community at all and that there are other options to enhance our community.

Mr. Robert Bracki stated that hazardous waste disturbs him greatly and that there are fluids cleaning up paint that produces VOCs. He stated that he has safety concerns about damaged cars and vandalism. Mr. Bracki stated that he spent several hours going over Gerber BBB and that only 4% of the reviews were complimentary.

Mr. Rich Jepsen, Owner of Darien Collision stated that he has been in business for 15 years. He stated that his business is out of site and out of mind and still provides service to the community. Mr. Jepsen stated that one shop has already closed due to lack of work and that there are three body shops within a mile. He questioned the safety with two schools and a retirement community nearby.

Mr. Coleman Lange, landlord for Darien Collision stated that Mr. Jepsen has been a renter for the last 15 years and if you put him out of business he will also be out of business.

Mr. Joe Myczek stated that he too submitted comments to the City. He stated that he does not agree with the minimal VOCs. He questioned the sanitary sewers, noise and if there will be a security fence. Mr. Myczek suggested that the Park District look at the area and provide more for the southwest side of town.

Mr. Leo Gustas stated that Gerber is just interested in making money and that if he had known an auto repair shop was moving in, he would never have purchased in area.

Mr. Vic Patton stated that he was an experienced biochemist. He stated that there was no mention of the concentration of VOCs from the stacks of the paint booth and the building. He further stated that no one knows the chronic implications and that Gerber's results are assumptions.

Mr. Patton stated that the waterborne base coat has a known carcinogen and that he would provide documentation. He questioned the VOCs introduced into the atmosphere with six vehicles per day and questioned the HVAC equipment and if the existing HVAC is going to be enough to supply the paint booth, exhaust and air to the building.

Mr. Jon Fey questioned if Gerber would run the cleanest operation and the results in 3-5 years. He stated that this is the worst type of business in the B-2 and that the City is bending over backwards to get them approved.

Mr. Phil Liable stated that he is blown away by the lack of detail that the petitioner provided. He stated that the area is surrounded by kids and bicyclists that use the path and that has been completely ignored. Mr. Liable questioned the aesthetics in five years stating that the Gerber facility nearby is not something that is desired in Darien. He questioned Ms. Miller's report and stated that nothing was there.

Mr. Gary Koche – President, Brookeridge Homeowners Association stated that the residents are concerned and against this proposal. He stated that there are residents who are on well water and that they would be more comfortable with a retail operation. Mr. Koche encouraged the City to find a more suitable retail operation.

Mr. Steve Shanks stated that the original documentation from the petitioner contained a bare minimum and that there are criteria in place to help public officials. He further stated that there is no evidence supporting the proposal and it is contradicting and misleading.

Mr. Shanks stated that it appeared that someone tipped off the petitioner to provide additional documentation and at the PZC meeting they were not prepared to support the

VOCs. He further stated that there is no user demand for the property and that the petitioner has not met burden of proof.

Mr. Shanks stated that the proposed fence is going to run over the fire hydrant and no mention of movement or repositioning and not a well thought out plan. He questioned fluids into the storm drain and that the petitioner's proposal does not meet the findings of fact and City criteria.

Ed Cervenka stated that he owned the vacant lot and that this was not good for resale.

Chairperson Belczak questioned if Gerber was a franchise or owned. He also questioned security and if there was any theft reported at other sites. He stated that he did not think a fence would look good.

Ms. Miller stated that all locations are corporate owned.

Mr. Peirce stated that they would have to get back to the City regarding statistics on theft but that the majority of their business is from insurance referrals and they would be concerned about theft.

Mr. Ryan Murphy, Storebuild LLC stated that there will be security on site and they can buy cameras.

Ms. Miller addressed hazardous waste and stated that it is collected indoors and that the paint related waste is so low that it takes the better part of a year to generate a drum. She stated that the statistics of VOCs into the air is a very small and non-detectable and not measured because the overall emissions are so low. She further stated that the cleaning of paint guns is service by a waste provider and the cleaning compound reused and not into the sewers.

Chairperson Belczak questioned if the building would be sprinklered and the length of the lease.

Mr. Murphy stated that they will do whatever is needed per City code. He stated that a new HVAC system will be installed and the building will be fully air conditioned.

Mr. Peirce stated that the lease is fifteen years and that Gerber has been a leader in the industry for 85 years. He stated that the data which they use is proprietary and that they are unaware of any sites that have closed.

Mr. John Demergent, Storebuild LLC referenced the Better Business Bureau ranking noting that there are 44 reviews and the submissions are a small sampling. He stated that there

are over 2500 Google reviews with a 4.3 out of 5 out of 2483 which is remarkable. Mr. Demergent stated that the BBB has been around since 1912 and that there are fees paid for accreditation. He referenced the three collision businesses in town and that there are no reviews so no complaints and that the D+ is a vanity metric put in place to attract businesses to erase the rating. He further stated that 85 years of experience stands on its own.

Alderman Stompanato stated that he was concerned about the D+ rating and that the CVS rating was an F which is an upgrade from what we had.

Chairperson Belczak asked staff about the fence and the fire hydrants.

Mr. Gombac reported that the City recommended the fence. He reported that there is presently an ornamental fence that needs repair and that staff will work with the nearby resident to have a fence of a different quality to replace it. He further reported that staff recommended a 6' high brick wall designed with the same brick as the building with a gate to have cars coming in and out and that the fire hydrant location will go through final engineering review and an additional hydrant may be required.

Ms. Kathleen Jackson stated that she is on well water south of the building and that there were two fires in 33 years and access to fire hydrants is the utmost importance. She stated that everything in the air goes into the ground and into the well that there has not been a walkability study.

Mr. Gombac reported that he is a Certified Water Operator with the State of Illinois and that the EPA has test sites within the quadrant of the Speedway. He reported that there is no reported issue of residue and no reports and contaminants in the area.

Mr. Gombac stated that DuPage County and the City of Darien are trying to get water to a resident because their well is not working properly and that he could help Ms. Jackson if needed.

Mr. Murphy stated that he and Mr. Peirce have over 60 years of retail experience and have marketed the site hard. He stated that they are the third company that has been hired for this location and that Gerber has been mischaracterized. He further stated that the business will generate sales tax and that Gerber offers financing, a lifetime guarantee on their work and that they support many different charities.

Mr. Olguin stated that per Illinois law that the City cannot deny a special use because they want a different use and that use is not in harmony with the surrounding neighborhood.

Alderman Schauer stated that this is going to go to the full City Council. He stated that Gerber provided clear evidence that they are not putting out chemicals or they would be shut down.

Chairperson Belczak stated that regarding environmental issues that there are no absolutes and on one ever knows.

There was no one else wishing to present public comment.

Alderman Schauer made a motion, and it was seconded by Alderman Stompanato approval of a PZC2023-08 8325 Lemont Road – Gerber Collision Special Use request pursuant to Section 5A-8-3-4 of the Zoning Ordinance. The petition specifically requests to allow conversion of a vacant building (former CVS Pharmacy) to an auto collision, repair, and service center. Property is located within the B-2 Community Shopping Center Business District with the following conditions:

- 1) Applicant/owner install a six (6) foot high brick wall enclosure with piers spaced and cap stone at the corners, and approximately 20 foot on center between the corners on the west side of the property as shown on the submitted site plan.**
- 2) Applicant/owner install a four (4) foot high trex fence to replace the existing fence located in the southern portion of the property.**

Upon voice vote, the MOTION CARRIED UNANIMOUSLY 3-0.

Chairperson Belczak announced that this would be forwarded to the City Council on Nov 6th at 7:30 pm.

ADJOURNMENT

With no further business before the Committee, Alderman Schauer made a motion, and it was seconded by Alderman Stompanato to adjourn. Upon voice vote, THE MOTION CARRIED unanimously, and the meeting adjourned at 8:31 p.m.

RESPECTFULLY SUBMITTED:

Thomas Belczak
Chairman

Ted Schauer
Alderman

Ralph Stompanato
Alderman