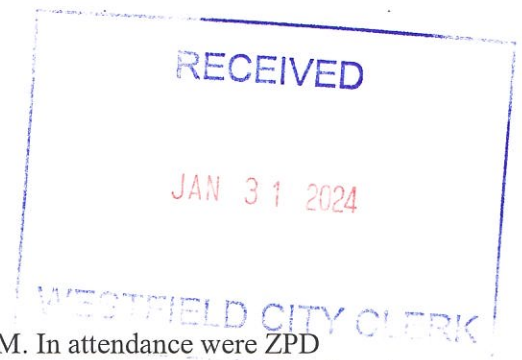


ZONING, PLANNING AND DEVELOPMENT COMMITTEE

JANUARY 3, 2024 at 6:00 PM

WESTFIELD CITY HALL, ROOM 201



The meeting was called to order by Chair Ralph Figy at 6:00 PM. In attendance were ZPD Committee members Councilor Bridget Matthews-Kane, Councilor Morganelli and Chair Councilor Ralph Figy. Also in attendance were Assistant Director of Planning and Development Jay Vinskey, City Councilor Beltrandi, City Councilor Harris, President of Levesque Associates Robert Levesque, John Raymakers and Scribe Karisa Zerbato.

A motion was made by Councilor Matthews-Kane, seconded by Councilor Morganelli for the approval of meeting minutes as submitted from December 5, 2023 and December 14, 2023. The motion passed 3-0 with Councilor Matthews-Kane, Chair Figy and Councilor Morganelli voting YES.

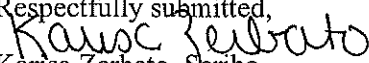
Special Permit, Site Plan Approval and Stormwater Permit applications for a Contractor's Yard with associated site improvements pursuant to Zoning Ordinance Sections 3-130.3(1), 3-179, 4-110 and 6-10, submitted by J. L. Raymakers & Sons, Inc. c/o Mr. John Raymakers to be located at 0 Progress Ave.

Chair Figy stated the public hearing was closed on December 21, 2023. Chair Figy stated the Stormwater Plan has been reviewed by the Engineering Department and Joseph Kietner recommended approval of the Stormwater Permit. Councilor Matthews-Kane stated when looking at the Water Resource Protection District there is a list of prohibited uses which includes "petroleum product dispensing including commercial gasoline sales and commercial petroleum product storage facilities but excluding aviation fuels". She stated this was discussed during the public hearing and her position is that petroleum product dispensing is prohibited. She stated dispensing doesn't mean it is for sale, it means it is taken and portioned out into smaller quantities. She further stated that aviation fuels are allowed to have safety tanks for storage. Chair Figy stated the word dispensing to him means selling, it is not for personal or industrial use on the site. Councilor Matthews-Kane asked for someone to provide her with a common dictionary definition that states dispensing is selling. Chair Figy stated this is for the use of the applicant only, it is not for outside use or sale. He agrees the ordinance is lacking on the definition of dispensing. Councilor Matthews-Kane stated she would like to make a motion to ask the Law Department how they would legally define dispensing in the list of prohibitions. She added that it shouldn't be their own personal interpretation of the word, it should be the legal meaning of the word. Councilor Morganelli asked if the dispensing wording is part of a state law or city ordinance. Councilor Matthews-Kane stated it is in the Water Resource Protection Act. Councilor Morganelli asked if there are homes located over the water resource protection areas. Mr. Levesque stated confirmed. Councilor Matthews-Kane stated it says that anything used in common household use is exempt. Mr. Levesque stated over the past 25 years there have been a number of special permits for work and projects over the aquifer submitted. He stated Comcast (a fuel storage facility) was issued a special permit not long ago as well as Brockway which is on the same road. He stated from a practical standpoint if the regulations were being interpreted how they are being interpreted no business would be allowed on the north side of town. Mr. Levesque stated he thinks they are specifically talking about commercial gasoline and commercial petroleum storage facilities. He stated under the section of small or very small quantity generators of hazardous waste is where they would fall. He stated this was talked about in the letter and shouldn't be ignored because certain amounts of hazardous wastes for these businesses is allowed under (exemption 3-170.5 1A). Councilor Matthews-Kane stated it was claimed in the public hearing that were many special permits granted over the Water

Resource Protection District. She stated she asked the City Clerk for a list and the ones talked about by Mr. Levesque were not mentioned. Mr. Levesque stated he has done many over the aquifer. Jay Vinskey stated Councilor Mathews-Kane may have just been looking at Contractor Yards. Mr. Vinskey stated the Planning Board granted Comcast fuel storage to fuel a generator. Mr. Levesque stated fuel is being brought in to be utilized. Chair Figy asked what kind of precautions are being proposed. Mr. Levesque stated there is a 2-part O&M Plan for the fuel tanks. He stated he met early on with Councilor Mello and talked about primary, secondary and tertiary containment for the tanks. He stated the O&M plan is in the Employee Protocol and Operations Manual for fuel storage. He stated this is an outline and would be filled out by Raymakers Construction. Mr. Vinskey stated that City Council needs to make a finding (#4) that this conforms to all rules and regulations. He stated he would look to the intent of the ordinance and see if fuel being brought in and dispensed over the aquifer is what is wanted or are there other places it could occur. Councilor Matthews-Kane expressed her concern with defining words without looking at a dictionary or without getting legal advice. She stated City Council is supposed to do due diligence even if the results aren't liked. Councilor Morganelli suggested talking to the Law Department and getting their interpretation of the word dispensing which could be presented to the full City Council and voted on. If the majority believes that dispensing is not the right wording in the ordinance that is a whole other area of concern. Councilor Morganelli stated he is a strong supporter of environmental safety, and they have a good plan to ensure safety. He doesn't want to hold this item in committee over the definition of dispensing. He stated the full City Council can weigh in with discussion and down the line if the ordinance needs to be revised a motion could be made. Chair Figy stated the Water Resource Protection Ordinance has been in committee for 6 years to be revised. He stated if an ordinance is lacking in some parts, it is the City Council's job to fix it. Councilor Matthews-Kane asked if she is allowed as an individual City Councilor to go to legal and ask for a definition or does the request need to be made by the whole committee. Councilor Morganelli stated she should be able to go the Law Department and ask what something means in an ordinance. He stated if it goes through the whole committee, it won't make a difference except holding the item up in committee which is not necessary. Councilor Matthews-Kane stated the meeting is tomorrow and she is willing to do the work, but she isn't sure she can get a finding that quickly. Chair Figy stated he will call legal first thing in the morning, and he will have them send out what their finding is. Mr. Levesque stated under Section 3-170.7 special permitted uses under the Water Resources Protection District it states "the above ground storage of hazardous materials for petroleum products except that special permit may not be required for storage of products which are in 5 gallons or less or approved by portable containers and used for customary residential or commercial activity". Mr. Levesque stated this is a special permitted use that has been applied for over the aquifer. This is for the above ground storage of oil tanks, he questioned why oil tanks can be stored if they can't be accessed for own use. Mr. Vinskey stated no one is saying petroleum products can't be stored above ground, dispensing is the qualifier that prohibits it. Mr. Levesque stated these are hometown, logical and safe contractors that want to use a facility in Westfield that is under-utilized and have all the requirements for fuel storage and all the requirements for the aquifer water resource protection district. He stated there have been several special permits over the aquifer including multiple fuel storage facilities and multiple machine shops. The National Guard is over the aquifer as well. He stated there will be no sales. He doesn't think the word dispensing is intended to prohibit people from getting gas/oil out of their tanks. Mr. Raymakers stated nothing is being sold, as a special license from the State to sell petroleum products is needed and that is not being done. Chair Figy stated he thinks the Water Protection Act was directed towards gas stations and repair shops. He stated however if repairs need to be done that is a different classification. Mr. Raymakers stated he thinks it states jet fuel because underground tanks are prohibited and the only sale of fuel over the aquifer is jet fuel and that is only in above ground tanks. He stated there are two next to the existing airport building that is owned by the city and then there is a private company

that has two tanks. A motion was made by Councilor Matthews-Kane to ask the Law Department how they would legally define dispensing in the list of prohibitions. There was no second. The motion failed. Councilor Morganelli stated he wants to ensure that the property does not become a truck terminal. He wants to make sure that the only vehicles on the property are those that Raymakers needs. Chair Figy stated this could be a condition attached to the special permit. Mr. Raymakers stated currently they own two companies, ROAR and J. L. Raymakers & Sons, Inc. He would like it to state an entity of J.L. Raymakers. Councilor Morganelli stated it could say owned by Raymakers or parent company of Raymakers. Councilor Morganelli made a motion to add the following special condition that all vehicles parked on the property must be owned and operated by the parent company J.L. Raymakers & Sons, Inc. The motion was seconded by Chair Figy. The motion passed 3-0 with Councilor Matthews-Kane, Chair Figy and Councilor Morganelli voting YES. Mr. Levesque stated the definition of dispense is to give out something; specific portion or amount and able to supply or release a product for cash. He stated that nothing is being dispensed to someone else, it is being utilized for the business. Chair Figy read the findings from the Special Permit, Site Plan Approval and Stormwater Permit. Chair Figy stated one condition that will be added is that all vehicles parked on the property must be owned by the parent company of J.L. Raymakers & Sons, Inc. Mr. Vinskey stated reference is usually made to the site plan. Mr. Vinskey stated that under #4 of the findings it should be clarified that City Council doesn't constitute this as fuel dispensing. Mr. Levesque suggested a condition could be that the special permit holder agrees not to dispense fuel for any other purpose than their own use with no intent to sell. Mr. Raymakers stated his concern with the motion and it being J.L. Raymakers & Sons, Inc. only. He stated if he ever wanted to sell he doesn't want it to be an issue. Chair Figy stated that the permit is only good for the applicant only. Mr. Vinskey asked if this would be a condition. Chair Figy confirmed. Mr. Bowman stated his concern with Councilor Morganelli's motion with the word parking instead of storage. Mr. Vinskey stated he would use his discretion and come up with the wording. Mr. Levesque suggested stating that the site will be utilized by the special permit holder and its affiliates only. Mr. Raymakers stated that sometimes the employees work far away and leave their vehicles on the property and take work trucks. Councilor Morganelli made a motion to approve the special permit with conditions to be attached. Chair Figy seconded the motion. The motion passed 2-0 with Chair Figy and Morganelli voting YES. Councilor Matthews-Kane voted NO.

Councilor Matthews-Kane made a motion, seconded by Councilor Morganelli to ADJOURN the Zoning, Planning and Development Committee meeting at 6:45 PM. The motion passed 3-0 with Councilor Matthews-Kane, Chair Figy and Councilor Morganelli VOTING YES.

Respectfully submitted,  
  
Karisa Zerbatto, Scribe

