

**CITY OF DERBY**  
**REDEVELOPMENT AGENCY MEETING**  
**MAY 11, 2005**

**DERBY CITY HALL – ALDERMANIC CHAMBERS – 6:30 P.M.**

Mayor Marc J. Garofalo called the meeting to order at 6:38 p.m. All rose and pledged allegiance to the flag.

**Roll Call**

Present: The Honorable Mayor Marc J. Garofalo  
Vincent J. Guardiano  
Glenn Stevens  
Greg Russo  
John Oraziotti

Also Present: Alderman Ronald Sill  
Alderwoman Sheri Pflugh  
Steven A. Jalowiec, Planning & Zoning Commission  
David Barboza, II, Planning & Zoning Commission  
Michael J. Joyce, P.E., Milone & MacBroom, Inc.  
Thomas S. Corso, President, AMS Advisory Services  
Richard Lutz, Mayoral Assistant  
Brian Lema, Esq.

**ADDITIONS, DELETIONS, CORRECTIONS TO AGENDA**

Mr. Russo said he would like to delete item #4 – Approve Minutes of April 13, 2005. Mayor Garofalo said he would like to delete item #8 – Authorize Mayor to execute Preferred Developer Agreement between the City of Derby and Ceruzzi Derby Redevelopment, LLC and change item #7 to have it Executive Session Only.

**A MOTION** was made by Mr. Russo with a second by Mr. Stevens to approve the two deletions and one change and adopt the agenda as amended. **Motion carried.**

Mayor Garofalo said before we go into the Public Portion, if there are no objections from the members, he would like to give an update on the status of the project. There were no objections from agency members. Mayor Garofalo said the intent was to have the Preferred Developer Agreement for tonight's meeting. The Preferred Developer Agreement is finished, however, Corporation Counsel is reviewing it and we should have it by the end of the day Friday or Monday morning. It would then be sent to the agency members to review prior to meeting. Mayor Garofalo said he would like to hold a Special Meeting next Wednesday evening. All members said that date and time would be good for them.

## **PUBLIC PORTION**

Dan Waleski, 23 Elm Street, Derby, CT – I have a sincere interest in this project from the citizens' point of view and I'm having a problem trying to find information, detailed information, in regard to this total project. For example – we had six renderings showing the proposed plan. On the Internet there are only three. There's also very little detailed information in regard to this anywhere that I'm aware of. So my basic question is where can I find more detailed information on this project? I would like to ask that it be made available to the general public for those interested. I would probably also suspect that probably the press would also like access to more detailed information on the project. So my request is please help us out in the public domain, in the public, so that people have a chance to look at some of this detailed information in written form to study at our leisure and become truly acquainted with the project. Thank you.

Brian Calvert, Calvert Safe & Lock, 40 Caroline Street, Derby, CT – I just want to ask next week's meeting is that a public meeting?

Mayor Garofalo – Yes.

Mr. Calvert – Is there anything of interest to us at the meeting? Or is it just a preliminary signing and that's it?

Mayor Garofalo – Well it would be to adopt the Preferred Developer Agreement and...

Mr. Calvert – Is there a point in us being there or is it just a signing?

Mayor Garofalo – Well it wouldn't be a signing...

Mr. Guardiano – We're going to receive the Preferred Developer Agreement to review on Friday?

Mayor Garofalo – As soon as it's ready.

Mr. Guardiano – So we'll act on it on that? Hopefully we'll have...

Mayor Garofalo – Yes.

Mr. Guardiano – Then the Preferred Developer Agreement would become public record at that point?

Mayor Garofalo – Yes.

Mr. Calvert – So the Preferred Developer Agreement will be public before next week's meeting.

Mayor Garofalo – No. Because it's still in a draft form.

Mr. Calvert – So as far as the public goes we would not have a chance to read it before you sign it.

Mayor Garofalo – That's correct.

Mr. Calvert – So there'll be no comment from the public on that agreement?

Mayor Garofalo – There will be in the various steps along the way – there will be the Planning & Zoning process, ultimately the Redevelopment Plan – again there's another public process on that. It will go before the Housing Authority as well they have to conduct a public hearing. As well as this board again on the Redevelopment Plan itself – the plan itself. The agreement would specifically lay out the number of units, and the terms and conditions, as well as the timeline of the plan itself.

Mr. Calvert – That would be a precursor and a lead into the Redevelopment Plan itself.

Mayor Garofalo – Yes.

Mr. Calvert – When does that surface? That part...

Mayor Garofalo – Well it is – part of the process for the Redevelopment Plan, the plan itself, had to go to Planning & Zoning for its written approval and then it has to go to the Housing Authority and then it will come back here at which time there will be a public hearing on the Redevelopment Plan.

Mr. Calvert – So there's still a chance for people to have input on this whole project.

Mayor Garofalo – Absolutely. There will be several. And these meetings there is a public portion at every meeting so you will be able to comment on the various aspects of the project on an ongoing basis as well.

Mr. Calvert – Thank you.

Jeff Auerbach, Derby Garden Center, 4 Caroline Street, Derby, CT – Just to follow up with what Brian was asking – I'm a little unsure of what is being said. There will be an agreement signed, this agreement that you're talking about, and then it's going to go to different committees.

Mayor Garofalo – Yes.

Mr. Auerbach – And then there may be changes to the agreement. Is that what you're saying? It's going to different boards with different committees. And there's going to be possible changes to the agreement.

Mayor Garofalo – To the plan – I mean the Preferred Developer Agreement is a legal agreement between the City and the development group based on what the project is going to be – some residential, the whole layout. Just like is someone were to put

together a subdivision or some other kind of development plan that agreement – whatever to purchase land, or assemble land or whatever the case is – that's kind of like before you get to Planning & Zoning. Once the City has the Redevelopment Plan then it goes the normal course with Wetlands, P&Z, Zoning Board of Appeals – whatever the regulatory code is – then the building permits, State Traffic Commission – the whole just as if it were a private development deal.

Mr. Auerbach – (Inaudible) modifications to it.

Mayor Garofalo – To the plan itself.

Mr. Auerbach – Well if the modifications are not acceptable to the developer is it possible that he could back out of the contract? Or is this a firm contract where modifications by both sides if they're made still lock in both sides to the agreement?

Mayor Garofalo – The specific language of that – language to that to say what the responsibilities of each party are will be detailed in the Preferred Developer Agreement.

Mr. Auerbach – But if one of the committees come up with something – I don't know what – Planning & Zoning – whatever it is and need to change something for whatever the reason is it possible the developer could say look I can't do that for some reason therefore I have to have the right to alter it more or be able to back out of it. Is that a possibility? Or is this locked in where both sides sign it's a locked in firm commitment with modifications being made along the way?

Mayor Garofalo – Can it be changed means it's not locked in.

Mr. Auerbach – So it's possible that for whatever the reason...

Mayor Garofalo – There would be legal remedies to any of the agreements. It's a contractual agreement just like any other contractual agreement.

Mr. Guardiano – I can give an analogy. We're acting like a seller – let's say someone is buying a piece of land – you have a seller and you have a buyer. We're mirroring more or less the seller's responsibility. We're going to enter into an agreement with the buyer and under these conditions the buyer will pay or do so many things, such and such, in order to acquire this. Now, the person then has responsibility as developer to go to the boards to get approvals for this. Now in the language of the Preferred Developer Agreement there will be some leeway for what they have to get. We don't want to go into the details but we're acting like a buyer. Certainly if a developer came in and had an agreement to buy a piece of land subject to getting fifty residential houses and he went to the Planning & Zoning agency and Planning & Zoning said he could only get ten houses obviously you don't have a deal – it's not the same deal. So this is a contract.

Mr. Auerbach – So modifications can be where if we can't deliver what he requires or if he can't deliver what we require it could be a change in contract or a cancellation.

Mr. Guardiano – That's right.

Mr. Auerbach – Just one more question – once this is signed next week or whenever and it becomes public where does the public go to find it if they want to read it?

Mayor Garofalo – Two places – one it will be on file in the City Clerk's Office and the other will be in a PDF format on the web site.

Markanthony Izzo, Olivia Street, Derby, CT – I have a couple of questions. First – once the Preferred Developer Agreement is signed and the plan is approved by all the boards and agencies and the shovels are in the ground is this the agency that's going to oversee the project or is it going to be another committee?

Mayor Garofalo – It would be a function of the Redevelopment Agency.

Mr. Izzo – Okay. The other question I had was several months ago I had requested through this agency to provide views from Shelton from the ground level and also from the Route 8 level of the views of what it would look like from the other side. I would probably also suggest all four sides of the development – is that going to be a possibility?

Mayor Garofalo – That would be part of the Planning & Zoning process.

Carl Yacobacci, 176 Main Street, Derby, CT – When this all goes through and they put the number of units they have there – they're talking about 720 units or something in that range – are a portion of those units by any kind of State law or Town law going to be affordable housing or HUD housing that it's mandated that certain parts of that have to be done? Or is this all going to be condominiums and apartments that Ceruzzi Development owns and just rents or sells them out to anybody? Or is there any portion that has to be designated?

Mayor Garofalo – The original RFP and our steadfast view all along was to have this be market rate housing.

Mr. Yacobacci – That's our view but is there any laws that require when you put up something this size that a certain portion – I mean it's all just hearsay – I've heard different things and (inaudible) and certain percent has to go to this or that and I'm just concerned about that.

Mayor Garofalo – That's not contemplated.

Mr. Yacobacci – Thank you. Hearing no one else wishing to address the agency members...

**PUBLIC PORTION CLOSED**

**TAKE ACTION ON WRITTEN OPINION OF PLANNING AND ZONING COMMISSION REGARDING SOUTH SIDE OF MAIN STREET REDEVELOPMENT PLAN**

Mayor Garofalo said Brian Lema, counsel to the Planning & Zoning Commission is present this evening. For the record the Planning & Zoning Commission met two times over the last month to consider the Redevelopment Plan. The Commission met last night and by unanimous vote they have submitted their written opinion of the Redevelopment Plan in accordance with C.G.S. 8-127. Atty. Lema read the opinion into the record:

**OPINION OF THE DERBY PLANNING AND ZONING COMMISSION ON THE REDEVELOPMENT PLAN IN ACCORDANCE WITH CONNECTICUT GENERAL STATUTES SECTION 8-127**

Upon review and study of the Plan of Redevelopment (the "Redevelopment Plan") proposed by the Derby Redevelopment Agency (the "DRA"), the Planning and Zoning Commission of the City of Derby (the "Commission") hereby provides its opinion on the Redevelopment Plan to the DRA.

As noted in the Plan, the proposed uses within the Redevelopment Plan should be governed by the Center Design Development District (CDD) Zone regulations, which are set forth and described in Section VI of the Redevelopment Plan. The Commission intends to review and revise these CDD Regulations as may be necessary and desirable to allow and regulate the land uses proposed by the Redevelopment Plan and to promote the policies of this Opinion.

The Commission recommends and endorses the Redevelopment Plan's proposal to incorporate the mix of uses permitted within the CDD Zone in the Redevelopment Area, including but not limited to:

- Retail, Personal, Business and Financial Services
- Professional and General Offices
- Restaurants (excluding fast food restaurants)
- Hotels, Motels, Conference Centers, Residential Uses and Clubs

A balanced and varied mix of appropriate uses should be present in the Redevelopment Area, which are harmonious with the goals and objectives of the Derby Plan of Conservation and Development; harmonious with other uses in the Center Design District; harmonious with the service and residential character and function of the Center Design District and its pedestrian orientation; and not of a quasi-industrial or highway oriented character or overly dependent on truck or auto traffic as a primary means of conducting business.

Additionally, the Commission approves and encourages the DRA to retain and incorporate into the Redevelopment Plan design characteristics that create scenic vistas of the Housatonic River; provide and promote pedestrian and public access to the Housatonic River; improve vehicular parking and circulation in the Center Design District; and develop public spaces such as parks and community buildings. The Redevelopment Plan should also encourage a traditional neighborhood design that

incorporates aesthetic features such as period lighting, as well as, architectural features such as detached and semi-detached buildings of various heights and unique facades that are consistent with Derby's history.

While the Commission recognizes the need for increased residential density in the Redevelopment Area, the increased density must not be the primary goal of the Redevelopment Plan, but simply the means necessary to create a development of the highest quality, which incorporates the aesthetic, architectural and planning features noted herein.

**A MOTION** was made by Mr. Guardiano with a second by Mr. Russo to accept the written opinion of the Planning & Zoning Commission and incorporate it as part of the permanent minutes. **Motion carried.**

**A MOTION** was made by Mr. Stevens with a second by Mr. Guardiano to refer the Proposed Plan of Redevelopment to the Housing Authority pursuant to Section 8-127 of the Connecticut General Statutes for the purpose of obtaining a written opinion.

#### **DISCUSSION ON MOTION**

Mr. Oraziotti asked when is the next meeting of the Housing Authority? Mayor Garofalo said that Atty. Buturla is working out the details and mechanism by which they have to operate that – it should happen shortly – they usually meet the first week of the month. Mr. Oraziotti said they couldn't meet sooner? Atty. Lema said the referral process wouldn't hold up this agency's actions.

#### **REMINDER OF NEXT REDEVELOPMENT AGENCY MEETING**

Mayor Garofalo said the next meeting would be Wednesday May 18, 2005 at 6:30 p.m. at 35 Fifth Street – the next regularly scheduled meeting of the agency would be Wednesday June 8, 2005 – 6:30 p.m. – site to be determined.

#### **DISCUSSION ON NEGOTIATIONS BETWEEN THE CITY OF DERBY AND CERUZZI DERBY REDEVELOPMENT, LLC (EXECUTIVE SESSION ONLY)**

**A MOTION** was made by Mr. Russo with a second by Mr. Stevens to go into Executive Session at 7:16 p.m. for strategy negotiations for the Preferred Developer Agreement between the City of Derby and Ceruzzi Derby Redevelopment, LLC. Corporation Counsel, Alderwoman Pflugh, Alderman Ron Sill, Mr. Lutz, Mr. Joyce and Mr. Corso were invited to take part in the Executive Session. Mayor Garofalo noted that the Executive Session would be subject to adjournment – there would be no action to take place.

#### **DISCUSSION ON MOTION**

Mr. Oraziotti said he has some concerns – his concerns are that he feels we are way behind in the curve on when redevelopment is going to start. For example, and correct me if I'm wrong, no pre-demolition survey has even been, for the asbestos, has even been started. Not only do we have to have the pre-demolition survey, then you have to remove the asbestos, utilities have to be disconnected, property that has to be acquired. I guess my concern is taking the first two and incorporating the last one you're probably talking about nine, ten months before we even get moving on

anything. I mean am I out of order by having that concern here or is that something that we should be discussing at a later date?

Mayor Garofalo – Like you said that's your concern and I think it's not really appropriate under the motion to go into Executive Session but I think that we can address those issues. And I think that many of the concerns, not just those but several other concerns will be addressed in the Preferred Developer Agreement – most important of which is the timeline.

**MOTION CARRIED.**

**ADJOURNMENT**

Executive Session ended at 8:02 p.m. and the meeting adjourned.

Respectfully submitted,

Patricia Finn  
Recording Secretary

**A TAPE RECORDING OF THIS MEETING IS ON FILE IN THE CITY CLERK'S OFFICE.**