

**Planning and Zoning Commission  
City of Derby**

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

David Barboza II

Richard A. Stankye

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez (Alternate)

Maryanne DeTullio, Clerk

A meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, October 21, 2008 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:10 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Rogers, David Barboza, Glenn Stevens, Albert Misiewicz, Steven Jalowiec, Richard Stankye and Raul Sanchez. Also present were Michael Joyce, Milone & MacBroom, Atty. Joseph Coppola and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

Mr. Stevens moved to add as Item 10c informal discussion Wesleyan Homes. The motion was seconded by Mr. Jalowiec and carried unanimously. A motion was made by Mr. Stevens to add as Item 10d Review of Zoning Violations Report. The motion was seconded by Mr. Jalowiec and carried unanimously.

Correspondence - None

Public Portion

Atty. Charles Willinger stated that he is representing Mr. & Mrs. Llano adjoining neighbor of Lowe's and asked to speak when the item is heard. Mr. Estwan stated that it is not a public hearing and he should make his comments during the public portion.

Atty. Willinger stated that he is opposed to the project and has only been retained by his clients since last week. He stated that they have retained a civil engineer because of serious erosion issues as well as health and safety issues. He stated that there is a very steep drop from their property to the Lowe's site. He requested that the matter be put off for one month and stated that if there is a favorable decision this evening they will take an appeal.

Mr. Estwan stated that the item has not been discussed at this time and the Commission will not make a decision until it is heard.

Atty. Willinger stated that his clients' property at 13 General Wooster Road abuts 500 New Haven Avenue in the northwest corner. The plans originally showed a retaining wall abutting their property and that is no longer on the plans. He presented a series of exhibits - a photograph of their home which they purchased 8 years ago and never had any

blasting, a retaining wall with a landscaped buffer which is consistent with the regulations.

He presented a copy of the minutes of the April 17, 2007 meeting which stated that they will be putting in a row of evergreens and a fence to buffer the property. He stated that the developer came back to the Commission and indicated that they did need to blast, which would only go on for a few weeks. They were granted permission to blast and it has been going on for six months. He stated that they feel that the retaining wall on top of the rock face will provide stability to the rock. He presented a copy of the 9/18 minutes which indicates that the retaining wall will provide stability and the fact that Lowe's was committed to minimizing the impacts to the neighbors.

Atty. Willinger stated that the current application seeks to eliminate the retaining wall and trees on top of the wall. He stated that instead they are going to have a wire mesh screwed into the rock and will address erosion concerns. He stated that they have not done the site work pursuant to the plans. He stated that erosion problems are a real issue and presented photos of the property showing the law eaten away and erosion along the fence. He was concerned as to who would repair the erosion that has already occurred. He stated that at the 9/16/08 meeting Lowe's engineer stated that the landscaping was installed but it has never been installed and they have not worked with them on these issues. He stated that they feel that these are major changes and they need to clean up the violations and the adverse effects to his clients' property.

He also presented a copy of the 10/7/08 letter from Milone & MacBroom which talks about the buffer. He stated that his clients have had issues from the blasting. He stated that his clients have made complaints to the police because of noise and he submitted copies of those complaints. He stated that their biggest concern is the erosion and he again asked that no decision be made so their engineer can look at the situation and submit a report. He stated that there are a number of things that they would like to see done with the site and their property. He also submitted a letter from their engineer which stated that he would like to review the design plans for the rock cut and stability measures.

Keith McLiverty, Academy Hill stated that Fairfield Homes built two homes on Clark Street Ext. and did not have the property soil and erosion controls which caused dirt to come down Clark Street onto Derby Avenue. He stated that the road was cut into without bonds or permits. He stated that because of things that were done police and Public Works employees had to go out and they have never reimbursed the city for this. He stated that the bonds were released and all the work was not done. He stated that the developers that do work in the City should be held to the standards of the City.

Approval of Minutes:

A motion to approve the minutes of 09/16/08 meeting was made by Mr. Jalowiec, seconded by Mr. Stevens and carried unanimously with Mr. Stankye and Mr. Rogers abstaining.

Acceptance of Applications:

There were no new applications to accept.

Public Hearings:

(a) Application for Change of Zone from City of Derby Planning & Zoning Commission - Roosevelt Drive - I-1 to CID - Assessors Map 9-4 Lots 6 thru 12 and Map 10-3 Lots 133-135 & 154 (Application #2008-8-19-4)

(b) Application for Zone Text Change from City of Derby Planning & Zoning Commission - Creation of New Corridor Improvement District (CID) Zone on Roosevelt Drive and creation of a new Special Exception Use (Age Restricted Residential Development (ARRD) in the R-1, R-2, R-3, R-4, R-5, RM and CDD Zones (Application #2008-8-19-4).

A motion was made by Mr. Barboza to open the public hearings on both these items. The motion was seconded by Mr. Misiewicz and carried unanimously.

Mike Joyce, Milone & MacBroom was present for the applicant. He submitted the certified mailings that were sent to abutting property owners and also letters to the VCOG and Regional Planning Agency. He stated that this is a resubmission of an application that was approved back in February. He stated that the first application is a zone change for a block of parcels located on Roosevelt Drive between D Street, North Avenue, Roosevelt Drive and Park Avenue. He stated that an analysis was done of the uses in this area which is a mix of industrial, retail, residential and a restaurant use. He stated that the new zone that is being proposed is a corridor improvement zone (CID). This is intended as a transitional area between the heavier industrial uses to the residential uses. He stated that this new zone does not look to eliminate the industrial uses in the zone. He stated that what is proposed is a reduction in the intensity and allow smaller type manufacturing uses that are there today but keep away larger outdoor intensive uses that would be adverse to the surrounding residential properties.

He stated that there are also some older buildings in the zone and part of the regulation is also to introduce a definition to the regulations for age restricted residential development.

That regulation would allow the renovation of buildings for that particular use. He stated that part of the regulation would be that at least tenant in the unit be 55 or older and no one in the household could be under 21.

He stated that in the regulation for CID there are specific bulk standards; the bulk standards that are underlying the I1 Zone currently in area so no properties currently in the zone will be non-conforming. He stated that they have introduced some special exception uses in that zone; one of which would be the age restricted development use. He stated that they looked at the Comprehensive Plan for Development with regard to the age restricted developments so that as a special exception this would be allowed in all residential zones. There are bulk standards for those type of developments in those

zones.

Mr. Joyce stated that the application is really two parts; one is to establish a new zone. He stated that this is a resubmittal of an application that was acted on in February.

Mr. Jalowiec asked about the density that will be allowed in age restricted developments compared to what is allowed in the RM zone. Mr. Joyce stated that the RM allows a higher density and the real difference comes in the other residential zones.

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

Joseph Zarmak, McCallum Enterprises, owner of the Shelton Canal, Derby dam and the Derby dam hydroelectric project stated that they are opposed to the zone change. He stated that they are opposing for safety and liability reasons. He stated that their canal spans almost the entire length of the CID and they will be reactivating two of the turbo units at the end of the canal. He stated that it is an industrial zone now and they think it should stay that way. He stated that they hope to have the water turbines working by the end of next year. He stated that when an industrial is re-zoned commercial and residential it has a negative impact on the industrial neighbors. He stated that every town should have an industrial area.

George Schrade representing Patrick Mainolfi stated that Mr. Mainolfi is opposed to the zone change and it should remain as it is. He also read a letter from Manger Dye Casting stating their opposition to the zone change as it is not in the best interest of their business.

Mr. Schrade also stated that he is opposed to the zone change. He stated that he is under contract to purchase property in this area and if the zone is changed his business would not be allowed.

Sarah Northrup, McCallum Co. stated that she is opposed to the zone change.

Nancy Digeisser stated that she understands that the existing businesses would be grandfathered in the new zone but her biggest concern is what will happen in the future. She stated that she does not understand why anyone would want to put residential there.

Keith McLiverty, Academy Hill asked if school age children could reside in one of these units and if an analysis of the impact to the school system was done. Mr. Joyce stated that the residents are restricted to at least one tenant being 55 or older and no one under 21 can reside there. Mr. McLiverty asked if there was someone residing under the age of 55 what would happen and Mr. Joyce stated that it would be a zoning violation and it would be enforced by the ZEO. Mr. McLiverty asked if it is developed as an age restricted development would it be changed to under 55 at any time. Mr. Joyce stated that it is currently not permitted that way.

Dan Waleski, 21 Elm Street stated that this has been a mixed zone for many years. The City has had difficulty attracting businesses and residents to enhance the tax base. He

make sure that both are protected.

Mr. Joyce requested that the public hearings be continued so that he may have further dialogue with the business owners in that area.

A motion to continue the public hearings to the November meeting so that Mr. Joyce may communicate with property owners in that area was made by Mr. Stevens, seconded by Mr. Jalowiec and carried unanimously.

(c) Application from White Hills Lawn & Tree Service for special exception approval for 12-14 New Haven Avenue for office for business with accessory interior only parking of vehicles used in business B-2 Zone (Application #2008-9-16-1).

Atty. Dominick Thomas, 315 Main Street presented evidence of the certified mailings. Atty. Thomas stated that the application has been made as a special exception. He stated that they believe that this is just an office with an accessory use. The property was formerly a gas station and then Midas Muffler and has been vacant for some time. He stated that it is the intent to make no changes to the buildings but they have added some plantings. He stated that the applicant operates a large tree removal business with a small office. The equipment leaves the site on a daily basis and all equipment will be kept inside. He stated that no customers come to the site. He stated that there will be no changes to the interior floor plan. He stated that the parking computation was done based on an office and warehouse. There will be no outside storage. He stated that one of the requirements of the special exception regulation is a certified professional engineer signed plan. He stated that this is a costly item and he has prepared an application with a list of certain waivers. He stated that he took an A-2 certified survey and measured out the spaces that exist and made them comply with the requirements as far as width and length. He stated that he added extra spaces where he was able, but these are not needed. There is sufficient parking for the employees. He stated that it is an R-5 Zone behind the property and along the southeastern side. This is a pre-existing non-conformity and there has been no buffers or uses for a very long time. He stated that he modified the Statement of Use to address some of the concerns expressed. He stated that his client has agreed to be locked into having no exterior storage; it is just an office and the accessory is to store his vehicles inside. There will be no repair work on his equipment on the site. The hours of operation are approximately 6:30 - 7:00 a.m. to 3:30 - 4:30 p.m. Monday through Friday. There is no request for signage. He stated that he understands that there is a 24 foot requirements for spaces and is asking for a waiver of that for this use only. He stated that he felt that there is no need to have the site plan certified. He stated that he is also asking for a waiver of the existing drainage. He stated that there are no changes to the drainage. He stated that there was a comment regarding the right of way and he noted that the deed will reflect it and it is in their favor. There will be no lighting on the property.

Atty. Thomas stated that there will be little traffic from this use and it is low impact. The applicant has already cleaned up the site and added some landscaping and he did not feel

that any further improvements to the property are necessary at this time.

Mr. Stankye asked about lights and Peter Botti, 6 Meadow Ridge Drive, Shelton stated that U.I. owns the light poles on the side of the building and it is angled so it does not shine on the neighbor's property. Mr. Stevens asked if all the chippings and fire wood is stored somewhere else and Mr. Botti stated that it is not stored on site.

Mr. Estwan stated that the concern that the Commission had was the application is for an office with storage as an accessory. The business is the storage as your accessory use. He stated that it is not just an office; your office is your storage area. He stated that the building has been vacant for awhile and this is an opportunity to clean up some of the area.

He stated that he cannot get beyond that you are just going to have an office because the office is not your business. Your business is the trucks that the employees use. He stated that there has to be some way to regulate this and we do not have a certified plan. Atty. Thomas stated that it is an expensive item have the plans done professionally and the Statement of Use provides protection to the City. He stated that there have been some improvements to the site and this is a low impact use. He felt that if they were now told to do other improvements to the site it would be an overburden to the applicant and there are absolutely no changes being made.

Mr. Joyce stated that the Commission does have the ability to waive certain requirements. He asked what type of equipment will be stored. Mr. Botti stated that three will be stored in the front and three in the rear and his equipment includes chip trucks, bucket trucks and a trailer with a machine on it. Mr. Botti stated taht he is the only one who has a key and no equipment will be left outside.

Mr. Joyce asked about the driveway entrance and Atty. Thomas stated that it is a low intensity use and he attempted to address concerns with the revised Statement of Use. Mr. Joyce also asked about the landscape buffer that has already been done. Mr. Estwan stated that there is nothing on the plans that show the plantings that have been done.

There was no public comment on the application.

Mr. Jalowiec stated that the Statement of Use is a good controlling factor and they have attempted to clean up the property. Mr. Estwan stated that it would have been better if everything was already on the site plan. Mr. Stevens stated that he is trying to relate this use to another similar use. Atty. Coppola stated that the special exception use is allowed in the B-2 zone and there is no category for the way it is listed on the application. Atty. Thomas stated that an office in the B-2 Zone as a permitted use is allowed and he would be happy to amend the application with the correct wording. Mr. Estwan stated that he has no problem with the business but wants to make sure that it is done properly. Mr. Barboza stated that he has no problem with the business but is concerned with the storage.

Mr. Joyce stated that something needs to be submitted that cleans up the plans and shows the correct spaces and plantings. Mr. Estwan suggested amending the application and showing everything on the plans.

A motion to continue the public hearing to the November meeting was made by Mr. Stevens, seconded by Mr. Jalowiec and carried unanimously.

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New Business:

(a) Application for Modification of Special Exception from Derby Shopping Center, LLC (Lowe's) for 500 New Haven Avenue (Application #2008-9-16-2).

Lawrence LePere, Lowe's stated that the site is under construction for some time. He stated that recently as part of the construction activities, town staff looked at the site and suggested that a modification to the special permit was in order. He stated that they objected to that and feel that the construction there is within the existing special permit. However, an application was processed and it is before the Commission. He stated that he would like to discuss a methodology in terms of giving town staff direction that they need in terms what has happened at the site. He stated that they think that their construction conforms to the original special permit and not all members of the town staff agree with that. He stated that there is an issue with them in trying to modify the special permit. He stated that they received permits and have the right to construct under those permits. He stated that they have a sizeable investment in the store and are now faced with the situation where they are now requested to come back and amend the special permit. He stated that this in essence leaves the entire permit process open to appeal and there was someone this evening to actually said it is their intention to appeal that decision.

He stated that would be their investment at risk and is not a situation that they feel they deserve to be in. They feel that the site plan that they have is in conformance with the original site plan. He stated that he would suggest that if the town staff needs some kind of concurrence from this Board in order to act, the Board act in an informal manner concurring that the site plan does in fact conform to the original approval. He stated that he would then withdraw the application that is before the Commission. He stated that it puts them in a position to have a large project at risk and perhaps they may never open. He stated that they have a project that is ready to go and they feel they conform to all the approvals that they got. He stated that they have been dealing with the adjacent landowner for a long time and have attempted to address all the issues that have come up. He stated that they have made an offer to the neighbor to resolve the issues. He stated that they are attempting to open in December but if the Commission has to act on the application this evening they will be delayed at least three weeks and if there is an appeal the delay can be much longer; if that should happen he could not say what they would decide to do with the project.

Mr. LePere stated that the Commission heard the engineers discuss what is in question here and decided that it was minor in nature and he did not see any reason why the Commission cannot entertain the possibility of saying that it is not only minor but conforms to the original site plan approvals. He asked the Commission to make an informal recommendation to town staff that they agree that the site plan is within the initial approval and he will then withdraw the application. He stated that if the Commission feels that if it is in conformance with the original site plan there is really nothing to act on but give town staff an indication that it is in compliance.

Mr. Estwan stated that a few things came up in the public portion - holding back either the disturbed earth and there were certain things not done from the original approval - a retaining wall and plantings. He asked if those were capable of being done

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at the existing site now. He stated that those were conditions of approval which have not been satisfied or they do not plan to do are violations of the original approval. Mr. LePere stated that as far as the retaining wall they have a retaining system in place which is an acceptable method from the engineering standpoint and should be considered as a different construction technique. It is a field change and should be looked at as that. He stated that they have been in negotiations with the adjacent landowner in order to try and resolve a functional issue in how best to do that. They feel that they can do that by reaching an agreement with the adjacent landowner or if not, another method to make sure that they conform to the site plan.

Mr. Jalowiec stated that the last time the City had a large box type project a temporary certificate of occupancy was issued and it took two years before the developer resolved all the issues that occurred. He was concerned that this may happen again and was not in favor of issuing any temporary permits.

Mr. Estwan stated that the adjacent property owner was a concern of the Commission from the very beginning and these things need to be addressed and the property owner protected. Mr. Jalowiec stated that he does not believe that this is a substantial change. He stated that he did not realize that the buffer is not there and that was one of the conditions of the original approval and should be done. Mr. LePere stated that retaining system was designed by a licensed engineer and they are relying on them. Mr. Rogers stated that he lives in the area and was shocked by the condition of the rock slope. He stated that the Commission spent a lot of time considering the application and putting conditions on the approval and now the developer is going to do something different.

Mr. LePere acknowledged that they are in negotiations with the adjacent neighbor and stated that they do not feel that the modifications are substantial and are not in violation of the approval.

John Plante, Langan Engineering stated that there is only one minor change. He stated that the only change is a retaining wall system to retain the overburden of soil on top of the rock slope that will be cut back. The rock slope is the same as approved on the plans. It was always envisioned that the rock slope would be moved back where it is at the same vertical slope and retained by the system that is out there. The retaining wall that they called for on the drawings was to retain the soil. They would not be able to determine how much soil was on top or where the line fell until the blasting was done. They would have had to cut back further to put in the retaining wall. When they were out in the field the only thing changed from what was approved to now, was how were they going to retain and stabilize that slope. The original concept was a retaining wall and when they got out there they determined that they could not do that. If they did that they would have had to cut back all the way toward the neighbor's property line and it would not be the best engineered solution. He stated that the only change is to take the retaining system for the rock face and wrapping it up over the existing soil. It is retained by that tecco system.

The original concept that was approved was to retain the overburden of soil on top of the rock by using a retaining wall. That would have provided a greater impact to the neighbor's property. This is a better solution in keeping with the approval, the intent of the approval, and the concerns of the Commission.

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He stated that instead of cutting back and digging down and being closer to the neighbor's property, they took a system and continued it over the slope to retain the soil. They have put rock bolts into the rock and soil bolts into the soil. He stated that everything else is the same. The property line fence, the swale to collect the water. He stated that they were able to pull away further from what was originally approved. This proposal of the retaining wall was to retain the soil that was overburdened on top of the rock and when they got out there they found that it was not the best solution for anyone. He stated that what is being proposed is doing the same thing, changing no conditions on the neighbor's property. He stated that no erosion is being caused by anything they are doing. He stated that they upgraded the fence from what was approved. He stated that they will put in the landscaping consistent with the approval.

Mr. LePere stated that they are not trying to take away any activity of this Commission. He stated that by having to make the application is takes their legal right of having an approved site plan and puts it at risk.

Mr. Estwan stated that they removed a building and added parking which is also part of the application. Mr. LePere stated that is not a violation of the site plan and if the Commission does not want parking there they won't put parking there. Mr. Estwan stated that it is not a violation but if it becomes parking you've changed. Mr. LePere stated that they will not put parking there and can put in grass if the Commission wants. Mr. Estwan stated that he tends to agree with them that what we are talking about is a different method or a modification to the site. He stated that the concern that he has is future erosion or modifications. Mr. LePere stated that the maintenance of the site is an obligation that they have and they cannot let any of the site become degenerate. He stated that they are committed to doing the maintenance that they have to do.

Mr. Jalowiec stated that the original approval was for two separate fences and it has been cut back to one. He stated that the tecco mesh is fairly smooth and he was concerned with someone getting on top of that. He felt that the second fence provided some buffer from the steeper slope. Mr. Plante stated that the whole area is isolated off and very well protected. Mr. Jalowiec asked if they felt that any of the erosion problems on the neighbor's property was caused from this site and Mr. Plante stated that it is not; they are downstream from her property. Mr. LePere stated that they will continue to work out a settlement with the neighbor. Mr. Estwan stated that is not a zoning issue. He stated that the properties are not downstream to this project and those homes were built after the first shopping center was there.

Mr. Stevens asked how the plantings will be done with the tecco mesh in place. Mr. Plante stated that they can make room within the tecco net to put in plantings. Mr. Stankye asked if they recalculated the runoff water without the restaurant being built. Mr. Plante stated that there will be a little less impervious area and the runoff is going into

the same system. Mr. Rogers asked why the changes to the retaining wall were not communicated to the town engineer and Mr. Plante stated that the site of plans indicated that the design of the wall would take place once the top of the rock was exposed. He stated that they should have communicated with the town engineer but it is performing the same purpose with a different mechanism which they feel has less impact.

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He stated that did not think it was a substantial change. He stated that in order to put the wall in they would have had to cut back further. He stated that they are tying into the existing slope and retaining the existing slope with the netting. He stated that from an engineering solution it was the best solution and they would not have to excavate the existing soil. Mr. Estwan stated that the original retaining system stopped at the top of cut. Mr. Plante stated that they wrapped it up on top of the existing material. Mr. Stankye asked to have the tecco mesh explained.

Mark Seale who is overseeing the design and inspecting the installation explained the tecco net. He stated that it is a high strength steel that provides a lot of restraint. The netting is wrapped and bolted down. It creates a compression and is very strong. The bolts are galvanized and for a long life expectancy. He stated that a jute fabric was put down and rye grass planted. He stated that Lowe's will maintain this area.

Mr. Joyce stated that they reviewed the technical data and sent it to a geotechnical engineer for review. The biggest concern was that the system was installed and they did not know about it. He asked if there was a plan in place for future maintenance. Mr. Seale stated that there is a maintenance plan and also that plantings could be done in the tecco system. Mr. Joyce stated that there is a bond in place in the event that there are any maintenance issues. He stated that as far as the parking spaces it is a temporary change since the restaurant is not being built now. Mr. Estwan stated that if the parking is paved and left it there, they have a certain amount of time to build the restaurant. If it is left that way they would have to come back before the Commission. Mr. Plante stated that they felt this was a better solution until that time to have it paved instead of just leaving it undone.

Mr. Jalowiec stated that the top of the rock will be planted but asked about the base. Mr. Seale stated that base will be as originally approved. Mr. Misiewicz stated that he would like to see closure of the buffer. Mr. Estwan stated that they are going to put in the plantings, and the two fences. They are not going to be putting in the restaurant at this time and he felt that it is not a change to the original plans. He stated that he did not want to minimize the concerns of the neighbor but they need to be separated - what is a zoning issue and what is an issue that they have a different resource. He stated that the Commission needs to determine if it is a change or an alternative method to get the same result.

Mr. Estwan stated that given all the facts this evening the changes are field changes and anything additionally noted in the city engineer's letter could be addressed administratively and does not need the Commission's approval. Mr. Joyce stated that he and David Kopjanski have been involved in inspecting the project and noticed things had changes and felt that the Commission should be made aware of them. Mr. Jalowiec felt that that Mr. Kopjanski should be very careful in issuing a certificate of occupancy. Mr.

Estwan stated that they have the original plan that they have to live with and follow. Mr. Estwan felt that the staff could address the issues and send a letter to the applicant regarding the issues and report back to the Commission. Atty. Coppola asked if they would be willing to follow up with staff and Mr. LePere stated that they will be happy to meet with staff and review the comments and recommendations.

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Mr. LePere stated that he is satisfied that the Commission has provided staff with the direction it needs and also that they will meet with staff and abide by anything already committed to. Mr. Estwan stated that he is satisfied with what was discussed this evening with what changes were made in the field. Mr. LePere stated that they are withdrawing their application and will submit a letter in writing withdrawing it.

(b) Request for Bond Reduction from Edge Brook Estates (E. Bassett Lane).

Mr. Estwan stated that this item will be tabled to the next meeting.

(c) Informal Discussion Wesleyan Homes - United Methodist.

Atty. Dominick Thomas, representing the applicant stated that this is a proposal for the property known as Hitchcock Farms. He stated that it is a proposal for a continuing care retirement community (CCRD). They are working with staff to incorporate the requirements of this into the IC Zone. Those discussions are ongoing and will also be discussing suggestions regarding the access to the site. This is a 62 and over federal statute that the development falls under. Robert Congdon of United Methodist Home presented an overview of the project via a slide presentation.

He stated that this project will be sponsored by Wesleyan Homes of Connecticut and this will be a continuing care retirement community. He stated that one of the goals of the project is for the people living there to have a full range of services that promotes independence and well-being. They would like it to be an affordable community that can serve middle income individuals. This is a private pay operation and it would have some facilities for educational and cultural programs and would be open to other seniors and people in the community. It will be a mix of cottages and apartments for independent living and then apartments for assisted living and health center. The common spaces will be a variety of dining opportunities, library, auditorium, activity rooms, wellness center and walking paths. There will be a 24-hour emergency response system in place. They will have their own transportation system to get the residents to shopping and appointments. Most of the residents will not be driving so it will be a low traffic generator. There would be a limited cost to Derby. He stated that the Board of Aldermen has approved a payment in lieu of taxes arrangement which will make the project one of the largest tax payers. He stated that the project will be done in phases.

(d) Zoning Violations Report.

The Commission reviewed the list of zoning violations provided by Mr. Kopjanski. Atty. Coppola stated that letters have been sent to these individuals by his office and Mr. Kopjanski. The members felt that the zoning violations should be dealt with first and

Atty. Coppola will pursue those.

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Old Business

(a) Application for CDD Approval from Jerry Key for 196 Elizabeth Street for use as a second hand store. (Application #2008-8-19-1).

There was no one present regarding this application. Mr. Estwan moved that the application be denied since no one has been present to represent the applicant. The motion was seconded by Mr. Barboza and carried unanimously.

(b) Application for Site Plan Review from Derby Housing Authority for business office at Cicia Manor (West Fourth St., Anson St. and Fifth St.) (Application #2008-7-15-1).

Jim Rotundo, 25 Brook St, Shelton stated that since they made their presentation at the August meeting they have received two variances from the ZBA regarding parking on the existing site. He stated that there are 40 residential units and a parking area with 11 spaces and therefore non-conforming with today's regulations. They are proposing an office building and eight spaces which meets the regulations for that. He stated that they were not meeting the current parking regulations and therefore a non-conforming site and requested a variance for that. The other variance was that since they were non-conforming they could not add on to the site plan. They received both of those variances. He stated that they received some comments from the city engineer and responded to those and incorporated them into the site plan. The parking lot has been shifted over toward the proposed office to widen the buffer strip. He stated that they have added curb stops and some plantings. He stated that they are proposing to widen West Fourth Street on the northern side. He stated that there will be temporary walkways during construction as well as safety fences and two pedestrian ramps.

The office buildings will be a single story 2100 s.f. with full basement which will match the existing architecture. They are currently located at 45 Minerva Street. Mr. Joyce stated that they will want detailed construction drawings for improvements to West Fourth Street. Mr. Estwan read a letter from the Fire Marshal dated 7/14/08 that there is no problem with fire accessibility.

Mr. Estwan moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the CDD and Site Plan Application for Derby Housing Authority on property shown on Derby Assessors Map 8-5, Lot 6 subject to the following conditions:

The approval shall be based upon the following documents submitted in support of and during the review of this application.

1. Statement of Use - Cicia Manor - dated 7/8/2008.
  2. Plans entitled "Cicia Manor - West Fourth Street, Anson Street & Fifth Street - Derby, Connecticut", owner/applicant: Housing Authority of the City of Derby, prepared by Rotundo Engineering, LLC with the following plans:

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- a. "Sheet SP-1 - Site Plan", dated 7/2/08 and revised through 9/23/08, drawn at a scale of 1" = 10'.
  - b. "Sheet SP-2 - Grading and Utility Plan", dated 7/2/08 and revised through 9/23/08, drawn at a scale of 1"=10'.
  - c. "Sheet SP-3 - Erosion and Sedimentation Control Plan" dated 7/2/08 and revised through 9/23/08, drawn at a scale of 1"=10'.
  - d. "Sheet SP-4 - Erosion and Sedimentation Control Notes and Details", dated 7/2/08 and revised through 9/23/08, not drawn to scale.
  - e. "Sheet SP-5 - Details and General Notes", dated 7/2/08 and revised through 9/23/08, not drawn to scale.
  - f. "Sheet IX-1 - Index Plan", dated 7/8/08 and revised through 9/23/08, drawn at a scale of 1"=10'.

3. Storm Drainage Computations prepared by Rotundo Engineering, LLC.
  4. Architectural Elevations and Floor Plan - "Housing Authority fo the City of Derby - Proposed Office Building", dated 10/15/08.
  5. Pictures of existing Cicia Manor Housing Units.
  6. Correspondence from Milone & MacBroom, Inc. dated 10/21/08.

With the following stipulated conditions:

1. Prior to any construction activities covered by this permit, the applicant shall have the following items both completed by a qualified party and verified as complete by the City Engineer, Corporation Counsel and/or Zoning Enforcement Office.

    - a. Arrange for the filing of this approval on the Derby Land Records.
    - b. Prior to any clearing or earthmoving activities, the proper installation of all sediment and erosion control measures indicated on the above referenced plans.
    - c. Preparation and execution of a bond in an amount and form acceptable to the City Engineer and Corporation Counsel to cover the cost of the proposed site improvements and the improvements proposed for West Fourth Street.
  2. Prior to the issuance of a Certificate of Occupancy the applicant shall arrange for the preparation of the appropriate easement documentation associated with improvements along West Fourth Street. All easements in favor of the City of Derby require the approval of the Derby Board of Aldermen.

3. The Zoning Data Table shall be updated to reflect the specific variance approved by the Derby Zoning Board of Appeals (ZBA).

4. Prior to any work within West Fourth Street the applicant shall submit detailed construction drawings for all improvements within the City of derby Right of Way to the City Engineer and Derby Director of Public Works for review and approval. The

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construction drawings shall indicate areas needed for construction staging and temporary construction fencing to specifically define and secure the work area.

5. Temporary sidewalks for Units 90-96 shall be provided during construction. The use of temporary sidewalks and any other temporary measures to protect the safety of the existing Cicia residents and maintain accessibility shall be provided when necessary.

6. The hours of construction for this project shall be limited to 8:00 a.m. to 5:00 p.m. No Sundays or Holidays.

7. Prior to the widening of West Fourth Street the applicant shall arrange for the construction of an equal number of parking spaces on site which shall be made available to Cicia residents until the improvements on West Fourth Street are complete and the on-street parking is available.

8. The drawings shall be revised to show pedestrian ramps at the sidewalk crossings along the proposed site drive.

9. The proposed retaining wall shall be designed by a professional engineer.

10. The City Engineer shall be contacted 48 hours prior to the installation of the proposed underground stormwater management system.

11. All disturbed areas on the site not directly required for construction activities shall be temporarily hayed and seeded until permanent vegetation is established.

12. After commencement of construction, an inspection of the condition, integrity and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, at least once every seven calendar days and within 24 hours of the end of a storm event that is 0.1 inches or greater and until the City of derby determines that inspections are no longer required.

13. Any significant changes or modifications to the plans presented will require subsequent review and approval by the Planning & Zoning Commission.

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

(c) Update on Redevelopment Zone

There was nothing new to report at this time.

(d) Request for Release of Maintenance Bond for Hidden Woods Subdivision.

This item will be tabled to the next meeting.

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Payment of Bills:

A motion to pay all bills submitted was made by Mr. Stevens, seconded by Mr. Jalowiec and carried unanimously.

A motion to adjourn was made by Mr. Stevens, seconded by Mr. Barboza and carried unanimously. The meeting was adjourned at 11:30 p.m.

Attest:

Maryanne DeTullio

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