

## ***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

David L. Savo (Alternate)

Joseph Gruttadauria III (Alternate)

Maryanne DeTullio, Clerk

A meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, July 18, 2006 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:00 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Rogers, David Barboza, Steven Jalowiec, Glenn Stevens and Albert Misiewicz. Also present were Atty. Joseph Coppola, Mike Joyce, Milone & MacBroom and Maryanne DeTullio, Clerk.

### Additions, Deletions, Corrections to Agenda

There were no additions, deletions or corrections to the agenda.

### Public Portion

There was no one from the public wishing to speak.

### Approval of Minutes:

A motion to approve the minutes of 06/20/06 minutes was made by Mr. Barboza and seconded by Mr. Stevens and carried unanimously.

### Acceptance of Applications:

Mr. Stankye moved to accept an application for CDD approval from 140 Main Street-Derby LLC for 142-144 Main Street. The application is for the addition of a deck and handicap ramp in the rear. The motion was seconded by Mr. Jalowiec and carried unanimously.

### Public Hearings

(a) Application from John Pawlowski for three (3) lot subdivision at 23 Clark Street Extension - R-3 Zone.

Alan Shepard, engineer stated that the plans have been revised based on some comments from the city engineer. He also stated that they have not received approval from the WPCA. There are some issues with capacity and they have proposed using pumping chambers. A report should be available within the next few weeks. Mr.

Joyce stated that if the changes that the WPCA wants result in changes to the plans the public hearing should be kept open so that they may submit those plans. Mr. Estwan noted that they did receive approval from Inland-Wetlands. There was no public comment on the application. A motion to continue the public hearing was made by Mr. Jalowiec, seconded by Mr. Barboza and carried unanimously. The applicant will submit the needed extension to the Commission.

(b) Application from Mangione Properties, LLC for Change of Zone for property on Commerce Street from I-1 to B-2.

(c) Application from Mangione Properties, LLC for Text Change for Section 195-16D.

Mr. Estwan stated that both public hearings will be heard together. Atty. James E. Cohen representing the applicant submitted copies of the certified mailings to the adjacent property owners. He also submitted copies of the applications and supporting documentation to the members as well as photos of the area and copies of the assessor's maps. The property is located on the east side of Commerce Street at the intersection of Route 34. It is a request for a zone change from I-1 to B-2 and a text change for the addition of a construction contractor's business as a special exception use in that zone.

Atty. Cohen stated that the Zoning Officer has determined that the property has three front yards and one side yard. This area was always commercial and when the regulations were revised the entire area was zoned B-2. This particular property is 9976 s.f. and as a result conforms to the B-2 requirements. Some time afterward the zone was changed to I-1 and while that was happening the adjacent parcel was developed based upon the B-2 zone and its regulations. They are attempting to reclaim a site that was always used for the sale of gasoline and has been abandoned for several years and has become an eyesore. They wish to erect a small commercial building for use as a contractor's business. The text change is to add the use as a special exception in the B-2 zone. Atty. Cohen stated that the site is approximately one-quarter of an acre and is just within the boundary of the I-1 zone and touches the B-2 zone. The City made it non-conforming by changing it to I-1. The change to B-2 would have little or not affect to the zoning scheme.

Atty. Cohen stated that the text change would add language allowing a contractor's construction business as a special exception use which is significantly less intensive than other permitted uses. The adjacent business is basically the same type of business as the applicant's.

Mr. Joyce stated that they had a staff meeting with the applicant's attorney and discussed the possibility of including the adjacent property in the zone change request. This property had received approval under the B-2 zoning regulations. He also stated that the existing definition should be kept as a construction contractor's business which would be consistent with the current regulations. He also stated that the referrals were made to the regional agencies but no responses received.

Mr. Estwan stated that this is the way that the Commission steered the applicant to go after the previous application. He also stated that the Commission needs to notify the Board of Aldermen in writing to get the applicant credit for previous fees paid. Mr. Joyce also stated that prior to the 2000 zone change the property was B-2 and it has been vacant for several years. Rick Mangione stated that they were not aware of the zone change to I-1 when they purchased the property.

There was no public comment on the applications.

Mr. Jalowiec stated that a smaller building would fit in the I-1 setback requirements. Atty. Cohen stated that it could but it would become non-productive and does not make economic or practical sense to do so. Mr. Estwan stated that it would have parking requirements under the existing zone which would be difficult to conform to. Mr. Jalowiec felt that the property was already changed several times and this is for someone who purchased the property and knew what the zone was. He was concerned about setting a precedent. Mr. Estwan stated that in the past the Commission was approached by the Office of Economic Development to change to I-1 because they felt it would be more marketable under that zone. The property has been vacant for several years and we now have someone who would like to clean it up and develop it. Mr. Joyce stated that the adjacent property owner filed under B-2 prior to it being changed to I-1. Mr. Estwan stated that this simply extends the line over. Mr. Jalowiec stated that he was concerned about the long term effect of these types of decisions. Mr. Joyce stated that this is a logical extension of the B-2 zone. Mr. Estwan stated that remediation funds are sometimes more readily available in industrial zones and that was one of the reasons for changing it to I-1. Mr. Mangione stated that any remediation work will be done and the tanks will be removed. Mr. Misiewicz asked if the applicant had attempted to get a variance and Atty. Cohen stated that they did and were denied.

A motion was made by Mr. Barboza to continue the public hearings for the purpose of receiving the responses from the regional planning agencies. The motion was seconded by Mr. Stevens and carried unanimously.

#### New Business:

(a) Application from Baybrook Remodelers, Inc./John L. Grant for CDD approval for 3 Cottage Street.

John Grant and Robert Mazzacane were present. They are requesting to build two decks on the rear of the house. The first floor will be 180' and the second floor will be 280'. Mr. Joyce stated that this is a corner lot and the deck is visible because of that. He suggested some screening on the deck and the applicant was agreeable to that. He also asked about the business use at the house and Mr. Mazzacane stated that there is no business use and it is all residential.

Mr. Estwan read a letter from the Fire Marshal indicating that there was no problem for fire accessibility. He also read a letter from three neighbors that they had no objection

to the decks.

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A motion to approve the application was made by Mr. Jalowiec, seconded by Mr. Barboza and carried unanimously.

(b) Home Depot Water Ponding Issue

Mr. Joyce stated that he has been in communication with Home Depot engineers and they will be trying a new solution to the ponding problem and something should be done within the next month.

(c) Discussion regarding subdivision regulations.

Mr. Estwan stated that the Commission received approval in the capital planning for upgrading the subdivision regulations but were asked to hold off for 45 days.

Old Business:

(a) Update on Redevelopment Zones.

Mr. Stevens stated that the city owned buildings need to come down and work will begin shortly. Atty. Coppola stated that the City reached an agreement with Derby Jewelers on their relocation costs. Governor Rell will be in Derby this week to sign off on the special tax district.

Payment of Bills

A motion to pay the bills from Milone & MacBroom was made by Mr. Barboza, seconded by Mr. Jalowiec and carried unanimously.

A motion to adjourn was made by Mr. Jalowiec, seconded by Mr. Barboza and carried unanimously. The meeting was adjourned at 8:10 p.m.

Attest:

Maryanne DeTullio