

# ***Planning and Zoning Commission***

Theodore J. Estwan, Jr., Chairman

## ***City of Derby***

Steven A. Jalowiec  
David J. Rogers  
David Barboza II  
Richard A. Stankye  
Albert Misiewicz  
Glenn H. Stevens  
Raul Sanchez (Alternate)  
Maryanne DeTullio, Clerk

A special meeting of the Planning and Zoning Commission of the City of Derby was held on Monday, February 25, 2008 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

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

### Additions, Deletions, Corrections to Agenda

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

### Correspondence

Mr. Estwan handed out copies of the preliminary Plan of Conversation and Development for 2008 which will be reviewed at the March meeting.

### Public Portion

Mark Izzo, Olivia Street stated that he will speak during the public portion of the public hearings but asked that the hearings be kept open so that more people may have an opportunity to attend.

### Approval of Minutes:

A motion to approve the minutes of 01/15/08 meeting was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously with Mr. Barboza abstaining.

### Acceptance of Applications:

Mr. Barboza moved to accept and schedule for public hearing an application from Marcucio Gardens for special exception use - nursery within a residential zone, 480 New Haven Avenue. The motion was seconded by Mr. Stankye and carried unanimously.

Mr. Barboza moved to accept and schedule for public hearing an application from ABS Learning Center for special use - daycare facility at 328 Derby Avenue. The motion was seconded by Mr. Misiewicz and carried unanimously.

Mr. Barboza moved to accept an application from City of Derby for site plan approval for new Middle School, Nutmeg Avenue. The motion was seconded by Mr. Misiewicz and carried unanimously.

Public Hearing:

(a) Application for Change of Zone from City of Derby Planning & Zoning Commission for Assessors Maps 7-8, 7-10, 8-5, 8-7, Water Street from CDD, B-1 to CDD I-1.

Michael Joyce, Milone & MacBroom presented the list of property owners who were sent certified letters regarding this application. He stated that the properties in this area are mostly existing industrial uses and there are some that are non-conforming in the present zone. This will clean up errors in the mapping that occurred previously. There is no development associated with this application. It is taking properties that are non-conforming and making them conforming. There are approximately fourteen parcels subject to the zone change. Mr. Estwan asked for anyone from the public wishing to speak on the application.

Mark Izzo, Olivia Street asked to have the CDD zone explained. Mr. Joyce stated that this area is more viable for industrial use and the Center Design Development District was established in 2000 to give the City some flexibility with zoning in the downtown area and encourage small businesses.

Elizabeth Hession, Garden Place asked about changes to properties on Garden Place and Mr. Joyce stated that there will be no changes to any of those properties.

Dan Waleski, 21 Elm Street asked about possible improvements to Route 8 which the State is suppose to be making. Mr. Joyce stated that they are focusing on smaller aspects of that project at this time. Mr. Waleski stated that this is much more feasible plan and advantageous to the City.

Marc Garofalo, 95 Academy Hill asked what data was used to propose these changes. Mr. Joyce stated that there was no specific data but there are existing uses that are non-conforming in the B-1 zone and they cannot do anything to their properties in that zone. This will clean up some errors that were previously made and there are other parcels in the zone which would be better used as industrial sites. Mr. Garofalo asked about the plans for Route 8 that the State has had for some time. Mr. Joyce stated that nothing has been done with those plans for a number of years and the City is looking for more current and viable projects that could come up. The long term plans for Route 8 are only preliminary at this time. Mr. Estwan stated that ten years ago there was a plan for Route 8 and nothing was even done with it. Mr. Garofalo asked that the Commission proceed with caution on this application as these are sweeping changes.

A motion to close the public hearing was made by Mr. Barboza, seconded by Mr. Stevens and carried unanimously.

A motion to approve the application with an effective date of March 14, 2008 was made by Mr. Barboza, seconded by Mr. Rogers and carried unanimously.

(b) Application for Zone and Text Change from City of Derby Planning & Zoning Commission for Assessors Maps 9-4, 10-3, area bounded by Roosevelt Drive, "D" Street, Park Avenue and North Avenue, I-1 to CID.

Mike Joyce, Milone & MacBroom presented the list of property owners who were sent certified letters. He also stated that correspondence was received from South Central Regional Planning. He stated that this application is two part - a zone change and zone text change. It is the creation of a new zone CID - Corridor improvement District. He explained the area is bounded by D Street, North Avenue, Roosevelt Drive and Park Avenue. There are currently ten parcels in this area zoned I-1 and also residential and light industrial parcels. He stated that they looked at the different uses in this area and there are some that are non-conforming. This is creating a transitional zone and there are new definitions for light industrial uses. This will add new support to some of the existing uses in the zone and add more uses to the vacant areas and not push out the industrial that is there now. He stated that one of the new type of uses is an age restricted residential use which is not in the regulations at this time. The age restricted use would be allowed as a special exception as redevelopment of existing parcels not new development. This use would also be allowed in other zones in the city as a special exception use. These changes will also establish more flexibility to parcels in town that did not have it before because of the zoning restrictions of the I-1 Zone.

Chm. Estwan asked for public comment on the application.

Donna Wandel, 116 Park Avenue asked about what uses are allowed. Mr. Joyce stated that it is a true mix zone and it is not intended to push anyone out that is there today. He stated that given the close proximity to residential areas it does not support large industrial type developments. He also stated that under the age restricted use properties can be redeveloped to a residential use.

Paul Manger, Manger Die Casting was concerned about over restricting some uses. He also questioned what light industrial non-nuisance uses are. He stated that he has loading docks and heavy trucks coming in. He stated that he understood that his uses are grandfathered in but was concerned about someone new coming into the area. He stated that the area is mostly industrial and has been that way for a long time. He felt that this might be more like spot zoning. He also stated that the text changes refer to light industrial without outside storage and almost everyone in the area has outside storage. He felt that the Commission should be very careful in being overly restrictive in this area.

S. Mainolfi, Park Avenue stated that there is a lot of trailer trucks coming in and parking on the sidewalks.

Mark Izzo, Olivia Street stated that with respect to the current residents and business that are there nothing will change for them. Mr. Joyce stated that under permitted uses

it was established that light outside storage would be permitted and under special exception uses industrial uses with outside storage would be permitted by special exception. He stated that this gives some flexibility to parcels that are not developed. This is a unique area and we are talking about what is best for this area.

William Korolyshun, Dale Drive asked how this might effect possible expansion of existing factories that are there now. Mr. Joyce stated that depending on their current setback requirements those have not changed and if they can expand now, they would be able to do so in the future. He also stated that the accessory uses are the same.

Bob Evans, Vitek Industries asked if his company is considered light industrial use. Mr. Joyce stated that it would be considered light industrial. Mr. Evans stated that he would like to see a better definition of what processes are allowed.

Dan Waleski, 21 Elm Street stated that he is a proponent of good zoning regulations and this is the best proposal in regard to handling this area that will satisfy most of the population. He stated that the Commission will continue to review applications carefully and will make corrections before they make a decision

James Fair, Lot 7 and 8 stated that he is concerned about some of the generalities in this proposal. He was also concerned about certain nuisance things. His company has been there for over 92 years and there are other viable businesses in this area. He was concerned about what would constitute a nuisance. Mr. Joyce stated that this is not changing what is going on today. It is the parcels that do not have established uses and are vacant. Mr. Fair stated that everyone needs to be a good neighbor regarding nuisance issues. He stated that he recognizes what they are trying to do and make it more viable for the City. Mr. Estwan stated that the Commission is trying to take unused properties and do not want to leave it as an I-1 Zone. He stated that this has been an ongoing discussion with the Commission with various applications that have come before us. He stated that with the intensive documentation changes is a far better plan than what we ever had. He stated that it is fair to the existing businesses and residents in the area as the rest of the area is developed.

Thomas Harbinson, 200 Roosevelt Drive asked to have the notification process reviewed and also asked if there were any definition for hours of operation. He felt that by encouraging residential development could produce conflicts with hours of operation of the businesses. He stated that it is hard to define the uses in this area and felt that the current businesses could be interviewed to see what they actually do. He felt that age restricted residential within a light industrial area would be driving light industrial out. He also asked who would enforce compliance with the age restricted requirements. Mr. Joyce stated that regarding hours of operation the Commission is not looking to change things. He stated that most of the uses being proposed are special exception uses and the Commission could restrict those hours. He stated that the age restricted regulation as proposed is taken from federal guidelines.

Leo Moscato, 34 Lewis Street asked who is developing this property. Mr. Joyce stated that no one is developing these properties. Mr. Moscato asked are sewer use if a

property is developed. Mr. Joyce stated that as part of the process an applicant would have to go through the approval process with other agencies and boards in the city.

Marc Garofalo, 95 Academy Hill asked why is being done now and not before. Mr. Joyce stated that there has been several discussions over the last year or so about age restricted developments being allowed in the city and this is about attracting a different type of developer. It is being allowed as another option and there is nothing in the regulations regarding age restricted developments.

Mr. Garofalo asked about these discussions. Mr. Estwan stated that there have been discussions as far back as 2003 where there were discussions in public about uses in this particular corridor zone. He stated that the city is making the application from the Department of Community and Economic Development through the city engineer. Mr. Garofalo asked what data was looked at regarding this. Mr. Joyce stated that they looked back to applications that were proposed for this area and comments from the public. There were concerns brought up by residents in the area about allowing residential developments that would have school age children. They looked at the zoning criteria and what is allowed and what would be best for the area. Mr. Garofalo asked about the density allowed under this regulation. Mr. Joyce stated that this also relates to other areas in town and explained the density in various zones.

Mr. Garofalo stated that he felt that this is significant and important to the city. He also spoke about making it available to the residents in the city. Mr. Joyce stated that the city does not have large parcels to develop and we are focusing on smaller areas. Mr. Garofalo stated that this strikes him as anti-business and once residential is put in it will cause commotion. He stated that manufacturing is not dead and small firms need areas to operate in.

Mr. Estwan stated that the Commission has had several different applications for this area and we are trying to do more for the entire area. The Commission has taken a comprehensive in-depth look at these properties and want to protect the light industrial uses that are there now. We do not want heavy industrial uses there. We do not have regulations for age restricted developments and what is being proposed for that is what fits best for the city. This is a happy medium which will allow the industries that are there now to remain and prosper and also allow for the development of the rest of the properties with something other than heavy industrial. It is better than what exists there now and trying to get something more positive. He stated that nothing is being developed there and the Commission is putting on its planning hat along with economic development director to try to drive something more positive and less intrusive.

Ken Duklos, A Street and Roosevelt Drive stated that he did not know if it is an ideal location for over 55 developments.

Marc Garofalo, 95 Academy Hill stated that because there is not a concrete proposal for this area. The City is bringing this forward at this time. He stated that the purpose of a public hearing is to get public input and discussion. He also asked that special care be given to environmental issues and smart growth.

Mr. Garofalo stated that other zones could have this age restricted development. Mr. Joyce

again explained the density allowed in the other zones.

Dan Waleski, 21 Elm Street stated that the Commission has been more than fair with the gentleman in answering his questions. He felt that this is a well written and a good thing.

Mr. Estwan read a letter from South Central Regional Planning stating the zone map and zone text changes do not appear to cause any negative impacts. Mr. Joyce stated that a referral was also sent to VCOG but no comments received back.

Mr. Misiewicz stated that there has been a lot of discussion tonight and perhaps the public hearing should be kept open. Mr. Estwan asked if anyone had any concerns with the definition of light industrial. Mr. Stevens stated that he felt that these changes reflect what the people have spoken about in the past. Mr. Rogers stated that he was not sure if you can ever define it to everyone's satisfaction. Mr. Estwan stated that it appears that the comments everyone has regarding this is reflected on the property that has been before the Commission before. We have addressed the entire corridor and are protecting the existing businesses and it does not preclude them from doing anything. This is a well drafted, well thought out, well planned and has taken everything that has been spoken about from the public over the last five years. It is a good document and fits this town. Mr. Joyce stated that he agrees with his dialogue for this corridor area but asked about the density in other areas in town. Mr. Estwan asked for any comments or concerns regarding density and how it is drafted for other areas of town.

Mr. Barboza felt that there is no definition for nuisance and you have to be careful if you start defining too much. He stated that as far as the density it might be a problem and perhaps it could be lowered somewhat. Mr. Joyce stated felt that a 20% reduction for roads would be more appropriate in all "R" zones than the 10% in the draft. The members agreed that the road reduction percentage should be changed to 20%. Mr. Rogers felt that under bulk requirements it should read that each lot shall have an area of "at least" 40,000 square feet... Mr. Stankye stated that he agrees with the business owners about nuisance but by putting in too many regulations it would become restrictive. He felt that any complaints could come back to the Commission regarding nuisance problems. Mr. Estwan stated that the ZEO can handle those. Mr. Joyce stated that there can be a clarification in the section that speaks about dust and noise and it should refer to exterior dust and noise. Mr. Rogers stated that the DEP uses the terminology fugitive dust. The Commission agreed to add the word fugitive dust, smoke...under the light industry definition.

A motion to close the public hearing was made by Mr. Sevens, seconded by Mr. Stankye and carried unanimously.

A motion to approve and adopt these regulations (copy attached) as amended effective March 14, 2008 was made by Mr. Estwan, seconded by Mr. Stankye and carried unanimously.

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New Business:

(a) New Derby Middle School Application - Preliminary Project Presentation and Discussion.

Keith McLiverty stated that they would like to make a preliminary presentation tonight and then

have the full presentation at the March meeting.

Jeff Gebrian, CR3 presented copies of certified mailings. He stated that Nutmeg Avenue is a public road and that will be changing coming up from Hawthorne Avenue ending in a cul-de-sac.

He stated that there are three areas which they are concerned about as far as their budget is concerned. Those are the parking, lighting and storm drainage. He also spoke about the parking situation and stated that they are asking for a reduction in the parking. He stated that the required parking is 474 spaces and they are showing 380 spaces. He stated that there are currently 369 spaces existing which are 9 x 18 and the new requirements are that the spaces be 10 x 18. Mr. Joyce stated that there is a section in the regulation that deals with shared parking and allows the Commission to grant a reduction in parking spaces. He also stated that based on the preliminary presentation this is a site plan application. Mr. Gebrian stated that there will be zero increase in runoff from the site. The entire site is 48.6 acres and 9.5 acres will be used for this development. He stated that there will be a bus parking area which has not been counted in the parking calculations but which could be used by 22 cars. He also spoke about the lighting and the lighting proposed meet the minimal requirements.

Mr. McLiverty stated that they also need some sort of a letter between the Board of Education and the City that talks about shared use and how they will work together not to have a conflict. Mr. Joyce stated that there is something in the regulations that relate to this and a simple letter would be needed that they will share the parking.

Mr. Gebrian stated that there will be the abandonment of a portion of Nutmeg Avenue from Chatfield Street to the proposed cul-de-sac. Nutmeg Avenue needs to be made available to both the high school and new middle school without the setback required by a 50' road. It will end in a cul-de-sac and from there on it becomes a drive.

He also stated that the transfer of property along Chatfield Street is to realign the property line from a jog which is currently in the right of way of the road. He also stated that there will be a 25' landscaped buffer between the end of the property and the residential property.

(b) 8-24 Referral - Abandonment of a portion of Nutmeg Avenue from Chatfield Street to proposed cul-de-sac.

A motion to approve the 8-24 Referral regarding abandonment of a portion of Nutmeg Avenue from Chatfield Street to proposed cul-de-sac was made by Mr. Barboza, seconded by Mr. Stankye and carried unanimously with Mr. Stevens abstaining.

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(c) 8-24 Referral Transfer of Property along Chatfield Street from City of Derby to High School/Middle School Property.

A motion to approve 8-24 Referral regarding transfer of property along Chatfield Street from City of Derby to High School/Middle School Property was made by Mr. Barboza, seconded by Mr. Stankye and carried unanimously with Mr. Stevens abstaining.

Old Business

(a) Update on Redevelopment Zone - No report.

Payment of Bills:

A motion to pay all bills was made by Mr. BARboza, seconded by Mr. Stankye and carried unanimously.

A motion to adjourn was made by Mr. Barboza, seconded by Mr. Stevens and carried unanimously. The meeting was adjourned at 9:40 p.m.

Attest:

Maryanne DeTullio

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