

***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

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, April 15, 2008 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:05 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Barboza, Glenn Stevens, Albert Misiewicz, David Rogers, Steve Jalowiec and Raul Sanchez. Also present were Atty. Joseph Coppola and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

Correspondence

Mr. Estwan read a letter from Attorney Joseph Rini requesting a continuance of the public hearing for ABC Learning Center to the May meeting. The letter also indicated that the applicant waives the 65 day limitation for the hearing.

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes:

A motion to approve the minutes of 03/18/08 meeting was made by Mr. Barboza, seconded by Mr. Misiewicz and carried unanimously.

Acceptance of Applications:

There were no new applications to accept.

Public Hearing:

(a) Application for Special Exception Use from ABC Learning Center, LLC for daycare facility at 328 Derby Avenue, Derby (Application #2008-2-25-2).

This hearing will be continued to the May meeting at the request of the applicant.

(b) Application for Special Exception Use from Marcucio Gardens, LLC for nursery within residential zone, 480 New Haven Avenue, Derby - R-3 Zone (Application #2008-2-25-3).  
Continued from 3/18/08.

Attorney James Cohen, 315 Main Street, Derby presented unclaimed certified letters and stated that letters were sent to those individuals by regular mail as well. Atty. Cohen stated that the applicant has done the following since the last meeting. He has removed the existing greenhouse and dismantled the storage bins which were used for mulch. He stated that at the suggestion of the ZEO the applicant has blocked the front of them so they cannot be accessed. He stated that the plans show that they are to be removed. The revised plans also show all the changes requested by Milone & MacBroom. He has removed any storage which was in front of the detention basin and relocated it to the commercial parcel and relocated the propane station and during the interim time did not sell any propane from the station which was on the residential parcel. There have been significant modifications to the driveway area in terms of the material composition and its design. They provided for a buffer of trees along the Hughes' property. They demolished the existing barn on the commercial piece. They added catchbasins for storm water collection, runoff and disposal. They have added a formal non-encroachment line which will be permanently on the ground and is shown on the maps. He presented a series of pictures showing what the site looks like at this time.

James Rotondo, 25 Brook Street, Shelton stated they have taken into consideration the comments made at the P&Z and Inland-Wetlands meetings and the City Engineer. They have revised the Statement of Use, revised drawings, engineering report and response letter from Mr. Columbo addressing the Wetlands comments. Mr. Rotondo noted that the existing greenhouse on the easterly boundary line has been removed. The cement block storage bins have been dismantled; they are currently still there laying on the ground, but will be removed. They have removed the propane tank and chainlink enclosure and have been moved to the garden center and are getting the permit issues worked on regarding that. The outside storage material which were located just below the detention basin berm have been removed. He stated that they have redrawn the site plan to depict the various uses and their locations on the site and put them into a key. There is the installation of a proposed greenhouse along the easterly property which is approximately 120' x 28'. They are also proposing a second structure just below the berm which is a nursery equipment shed approximately 65' x 25'. The purpose of that will be to house equipment used in the nursery operation and tools which includes small machinery (tractors). There will be three shrub and tree cultivation areas, which are areas where trees and shrubs will be placed on the ground and mulch around the root balls. There will be no excavation associated with their placement. He stated

that area below the berm adjacent to the garden center is delineated as a truck delivery unloading and turnaround area. This will be treated with a crushed gravel surface. They are also delineating an area around the pond as a detention basin maintenance access and no ground surface will be put there. They are proposing a temporary nursery recycling area where old shrubs will be stored and periodically mulched and used in the nursery operation in the shrubs cultivation areas. He stated that to the north of that there is a detention basin maintenance material stockpile. They are responsible for maintaining the detention basin and when the material is taken out of there it will be temporarily stored in that location and then removed from the site.

He stated that they are establishing a non-encroachment line which is inside of the wetland line. This will be delineated in the field with 4 x 4 posts at various locations. They have also installing some additional drainage. There has been a concern of runoff in the southwest corner of the property. They are constructing a landscaped berm to help alleviate some drainage problems in the southwest corner. This will enable them to slope from the property line back to the catchbasin. The catchbasins will have inserts to help take out any sediments or oils in the runoff. They are also proposing four foot deep sumps in the basins.

Mr. Rotondo stated that they added a note to the site plans that there will be no outdoor lighting in the R-3 zone. They also provided some additional plantings along the berm in the southwest corner.

He presented preliminary drawings of two proposed buildings - the nursery equipment shed and also the proposed greenhouse. Mr. Estwan asked about the access to the nursery storage shed and where it faces. Mr. Rotondo stated that it faces New Haven Avenue and since it backs up into the berm, the bottom half of the building will be hidden. Mr. Estwan asked how high the berm is at its highest point and Mr. Rotondo indicated that it is about 8'. Mr. Rogers asked the projected date for removal of the concrete bins. Mr. Rotondo stated that there is no projected date but they have been made unusable.

Chm. Estwan asked for public comment.

Delores Cremonie, 15 Homestead Avenue stated that she is not in favor of the granting of a special exception and conducting commercial business in a R-3 zone. She submitted her comments for the record.

Sharon Jupin, 464 ½ New Haven Avenue stated that she was opposed to this application and submitted her comments for the record.

Dan Waleski, 21 Elm Street stated that this is a very complicated application and the Commission should take special care in reviewing it. He was opposed to granting the special exception.

Ted Baltes, 23 General Wooster Road stated that he has been waiting for the mulch bins to be taken down for a long time and there are a lot of violations on this property.

He asked what they plan on putting in the proposed storage shed. He stated that the accessway going up to the back property is in the R-3 Zone which is being used for storage and parking and that is not allowed in that zone. He stated that he is opposed to the special exception application.

Mr. Stevens asked about the access to the greenhouse and if it just a walk in. Mr. Rotondo stated that the purpose of the shed is for the equipment. The greenhouse is just a walk in greenhouse. Mr. Estwan stated that it appears that the the nursery equipment shed has been added to eliminate any outside storage. Mr. Rotondo stated that it was. Mr. Misiewicz asked what type of equipment will be stored in the shed. Michael Marcucio, 113 Sunset Drive stated that they have downgraded their equipment to the smallest possible ones that they can use to move the trees.

Mr. Estwan asked to review the non-encroachment line. Mr. Rotondo stated that it is 250' off the rear property and comes out to where the property almost intersects the wetlands and goes diagonal down to what is basically the back of the road that is used for access around the detention basin now. It follows the wetlands line around the basin down to where the existing stockade fence, behind the fence and the shrubs that are there and down to the property line, approximately 33' off that corner. Mr. Estwan stated that there was a concern regarding drainage and water runoff from the property. He stated that it appears that they addressed quite well in the rear of the Hughes' property with a planting berm and grading back and also putting in a drainage. He asked about the side of the property where it abuts the Jupin property. Mr. Rotondo stated that with the construction of the berm they will actually be raising up the interior of the berm so it will drain back to that catchbasin.

Chm. Estwan read the revised Statement of Use into the record. He asked Atty. Coppola how that corresponded with the definition of nursery. Atty. Coppola read the definition of nursery. Chm. Estwan stated that the only concern that he had was that there is a written intent in order to do that is machinery or tools to cultivate and grow, which is delineated by the proposed nursery equipment shed. He stated that he will ask the Corporation Counsel to look into that to make sure that the nursery and what is used to operate the nursery does not grow and take a life of its own into something else. He wants to make sure that whatever the statement of use is coincides to exactly what our definition is in the zoning regulations. He stated that you do need other things for the nursery but we don't want it to become something else. Atty. Cohen stated that they believe that it does in fact meet the definitions that are included and there is no intent to do anything other than that.

Mr. Stevens asked about the cultivation area and whether the trees will be planted or rolled. Chm. Estwan thought it could be either. Mr. Stevens asked about back up alarms on the machinery. Michael Marcucio stated that there are no back up alarms on these small machines that we use. Mr. Misiewicz asked about the recycling area and the fact that mulch was mentioned. He asked if this is used exclusively in the nursery operation and not for sale. Mr. Rotondo stated that it is only for use in the nursery operation.

of equipment on the site. She stated that she is opposed to any other structures being built on the property.

George Jupin, Jr. 464 New Haven Avenue asked what the proposed use of the sheds and what type of equipment will be stored there. Michael Marcucio stated that equipment needed for the detention basin maintenance will be kept off site. The equipment in the shed will be smaller such as lawn mowers and small machines to move the trees.

George Jupin, 464 ½ New Haven Avenue stated that he did not understand why they say agriculture versus nursery versus greenhouse. He felt that if he gets an agriculture exemption it is like an open book to do anything. He stated that he owns 7 plus acres and this application is only for a small part and what happens to the rest. He stated that everything is gravel and dirt and asked about dust control when equipment is being used.

Atty. Cohen stated that the application is for a special exception use for the entire parcel. The proposal is to use a portion of it and to exclude activities in a portion of it. Chm. Estwan stated that the exclusion is delineated on the map that is filed with the application that will be filed on the land records.

Ted Baltes, 23 General Wooster Road stated that at the last meeting it was asked if they were looking for a special exception for use as a nursery and Atty. Cohen stated that it was. He asked if that is still the same. Chm. Estwan stated that there has been new information and a revised statement of use and revised plans.

George Jupin, 464 ½ New Haven Avenue asked why if it is for the whole parcel why the whole parcel is not buffered. Chm. Estwan stated that the application is for the parcel of property but the applicant has delineated a portion of the property which will not be used and effected which will be filed on the land records.

Delores Cremonie, Homestead Avenue asked the hours of operation. The hours of operation stated are 7:00 a.m. to 7:00 p.m. seven days a week except during winter months when it is very limited.

Chm. Estwan asked the applicant for an extension of the public hearing to the next month. Atty. Cohen stated that they will file the extension.

A motion to continue the public hearing to the May meeting was made by Mr. Rogers, seconded by Mr. Barboza and carried unanimously.

(a) Application for Modification of Special Exception from Whitey's Marina for 412 Roosevelt Drive (Application #2008-3-18-1).

Sue Giordano stated that neither her engineer or architect were available this evening. She stated that they have Mr. Joyce's comments and her engineer has addressed those and submitted them to Mr. Joyce. Mr. Misiewicz moved that this item be continued to the May meeting. The motion was seconded by Mr. Jalowiec and carried unanimously.

(b) 2008 Derby Plan of Conservation and Development.

Chm. Estwan stated that he has received a lot of comments regarding this. He stated that he would like to schedule this for public hearing in May. He stated that VCOG did a lot of the work on this. A motion to schedule for public hearing at the May meeting was made by Mr. Barboza, seconded by Mr. Misiewicz and carried unanimously.

### 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. Misiewicz and carried unanimously.

A motion to adjourn was made by Mr. Jalowiec, seconded by Mr. Misiewicz and carried unanimously. The meeting was adjourned at 8:00 p.m.

Attest:

Maryanne DeTullio

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