

***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, September 16, 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 Chm. Ted Estwan. Present were Ted Estwan, Steve Jalowiec, Glenn Stevens, Albert Misiewicz, David Barboza and Raul Sanchez. Also present were Atty. Joseph Coppola, Michael Joyce, Milone & MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

A motion to add as Item 8(a) Informal Discussion White Hills Lawn Care was made by Mr. Barboza, seconded by Mr. Jalowiec and carried unanimously. Mr. Jalowiec moved to add as Item 8(b) Derby Shopping Center Informal Discussion. The motion was seconded by Mr. Stevens and carried unanimously.

Correspondence

Chm. Estwan read a letter from Rotondo Engineering requesting a continuance of the Derby Housing Authority application to the October meeting.

Chm. Estwan read a letter from Atty. Dominick Thomas withdrawing the zone text amendment and zone change applications from Wesleyan Heights. He requested that any fees paid be applied to any subsequent applications. Chm. Estwan stated that any requests for fee refunds or waivers go through the Board of Aldermen.

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes:

A motion to approve the minutes of 08/19/08 meeting was made by Mr. Barboza, seconded by Mr. Misiewicz and carried unanimously with Mr. Estwan and Mr. Jalowiec abstaining.

Acceptance of Applications:

(a) Informal Discussion White Hills Lawn & Tree Service

Atty. Ian Cole stated that his client, White Hills Lawn & Tree Service is renting space at 12-14 New Haven Avenue for use as a business office and as an accessory use parking of vehicles inside the building. He stated that he spoke with Mr. Kopjanski and they have filed an application. This is a permitted use under the regulations in the B-1 Zone. It will be used as a business office and can park trucks as an accessory use. Mr. Kopjanski felt that it was a special exception and Atty. Cole disagreed as it is not a construction contractor business and there will be no outside storage; and believes it is a permitted use. Atty. Cole stated that he felt that the special exception regulations are onerous in the notification process and felt that it is unnecessary to require a special exception in this case. He would like to proceed as a site plan application.

Mr. Joyce noted that the property is located in the B-2 Zone. Mr. Estwan stated that when the Commission cleaned up some zoning they added a contractor business as a special exception use in that zone. Atty. Cole stated that he does not feel that this business falls under the definition of construction contractor. Mr. Estwan stated that the Commission needs to determine if it is a business use (office) with the parking of vehicles as an accessory or is the use a lawn and tree service. Atty. Coppola stated that the application needs to be accepted the right way or else it could be challenged. Atty. Cole stated that it could be challenged anyway and if there appears to be opposition the Commission could require a public hearing. Mr. Jalowiec stated that it appears to him that the office is an accessory use to the equipment. Mr. Estwan felt that it should be a special exception and also stated that the regulations are not onerous as other application have complied without a problem. Mr. Estwan moved to accept the application from White Hills Lawn & Tree Service as a special exception and schedule for public hearing in October. The motion was seconded by Mr. Jalowiec and carried unanimously.

(b) Informal Discussion Derby Shopping Center

John Plante stated that they were required to come back to the Commission with any substantial changes to the plans. There have been some adjustments to the plans with the slope in the rear corner and blasting that slope to achieve grading necessary to construct the Lowe's building. He stated that they felt that the adjustment is a better solution than cutting back and providing re-enforcement. They are planning on re-enforcing by wrapping around the rock instead of a retaining wall. He stated that details were submitted to the town staff as part of the application. Mr. Plante stated that originally a restaurant pad was approved but due to market conditions no tenants has been found for that restaurant. They would now like to use that area for parking and will add additional landscaping until a tenant can be found. There will be an additional 50+ spaces and they feel that is a minor change to the original application.

Mr. Estwan stated that it was approved as a special exception and if the Commission feels they are substitutive changes can require another public hearing. He stated that the main concern is with the retaining wall and how this will effect the homes in the rear.

Mr. Joyce stated that he had a meeting with the application and he wanted to have on record any design changes for the slope and how this will effect the project. Mr. Plante stated that this is a more sensitive solution and all landscaping has been installed. They worked closely with the abutting property owner. He stated that they will disturb less area and maintain more of the slope that with the retaining wall.

Mr. Joyce asked about maintenance requirements for this change and Mr. Plante stated that periodic inspections will be done. Mr. Estwan felt that the public should have an opportunity to speak during the public portion of the meeting if it is not a public hearing.

Mr. Jalowiec moved that the application be accepted as a modification to the special exception approval. The motion was seconded by Mr. Stevens and carried unanimously.

Public Hearing:

(a) Application for Change of Zone from City of Derby Planning & Zoning Commission for Water Street, Assessor's Maps 7-8, 7-10, 8-5, 8-7 - CDD, B-1 - Proposed Zone CDD, I-1. (Application #2008-8-19-3).

Mr. Joyce stated that this same application was submitted in January. It effects 14 parcels and some of the changes are intended to correct boundary lines. It was at one time all zoned industrial and was changed to B-1 and is now proposed to revert back to I-1. There was a procedural error with the previous application and are required to start the process over. The abutting property owners were notified and required signs posted. This is intended to make the properties more conforming and correct boundary errors. Chm. Estwan asked for any public comment on the application.

Dan Waleski, 21 Elm Street stated that this area has been a problem for quite some time and needs to be taken care of.

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

New 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 concerning this application. Mr. Stevens moved that it be tabled to the October meeting. The motion was seconded by Mr. Misiewicz and carried unanimously.

(b) Application for Site Plan Amendment from Jo-Ann E. Cecarelli for 385 New Haven Avenue for vehicle, sand/salt storage - B-2 Zone (Application #2008-8-19-2).

Austin Mattutini and Jo-Ann Cecarelli were present. Mr. Mattutini stated that they are proposing a canopy to house salt and sand and equipment for use on their property. Mr. Joyce asked if there was going to be any additional access to the property and Mr. Mattutini stated that there will not be. Mr. Joyce stated that a DEP permit may be needed to store salt.

Mr. Barboza moved to approve the application and stated that the applicant should coordinate with the city engineer on regulations for salt storage as there may be additional permits needed. The motion was seconded by Mr. Misiewicz and carried unanimously.

(c) Application for Change of Zone from City of Derby Planning & Zoning Commission for Water Street, Assessor's Maps 7-8, 7-10, 8-5, 8-7 - CDD, B-1 - Proposed Zone CDD, I-1. (Application #2008-8-19-3).

Mr. Estwan moved to approve the application effective October 3, 2008. The motion was seconded by Mr. Jalowiec and carried unanimously.

(d) Request for Bond Release - Clark Street Extension Subdivision.

Mr. Joyce stated that it appears that the improvements have been completed that were required by the Public Works Department. He recommended release of the remaining bond in the amount of \$12,000.00. Mr. Jalowiec moved that the \$12,000.00 bond for Clark Street Extension Subdivision be released. The motion was seconded by Mr. Barboza and carried unanimously.

Old Business:

(a) 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).

This will be continued to the October meeting.

(b) Update on Redevelopment Zone.

Atty. Coppola stated that the City is going out to bid for a new developer.

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

Mr. Joyce stated that additional work still needs to be done and he recommended that the bond not be released at this time.

Payment of Bills:

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

Mr. Estwan stated that he will ask Mr. Kopjanski to submit a report regarding zoning violations for the next meeting.

A motion to adjourn was made by Mr. Jalowiec, seconded by Mr. Misiewicz and carried unanimously. The meeting was adjourned at 8:15 p.m.

Attest:

Maryanne DeTullio

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