

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, January 20, 2009 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, Albert Misiewicz, Richard Stankye, Steven Jalowiec, David Barboza and Raul Sanchez. Also present were Attorney Joseph Coppola, Michael Joyce, Milone & MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

Mr. Estwan stated that Item 11b should be deleted from the agenda. Mr. Jalowiec moved to remove it from the agenda. The motion was seconded by Mr. Stankye and carried unanimously. Mr. Rogers moved to add as Item 7a the approval of the minutes of the 11/18/08 meeting. The motion was seconded by Mr. Stankye and carried unanimously.

Correspondence - None

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes:

A motion to approve the minutes of 12/16/08 meeting was made by Mr. Rogers, seconded by Mr. Stankye and carried unanimously. A motion to approve the minutes of the 11/18/08 meeting was made by Mr. Rogers, seconded by Mr. Stankye and carried unanimously.

Acceptance of Applications:

Mr. Barboza moved to accept an application from City of Derby for site plan approval for extension of access road from BJ's (Division Street). The motion was seconded by Mr. Jalowiec and carried unanimously.

Mr. Barboza moved to accept an application from Michael Klein for site plan amendment; change of use for 155 New Haven Avenue. The motion was seconded by Mr. Jalowiec and carried unanimously.

Public Hearing

(a) Application for Zone Text Change from Wesleyan Homes of Connecticut, Inc. - Text Amendment to add Continuing Care Retirement Community (CCRC) and associated design standards to the I-C Zone and to add standards for private roadways and driveways in Section 195-26Q and LL. (Application #2008-11-18-2). Continued from 12/16/08.

Atty. Dominick J. Thomas, Jr. stated that this hearing is being continued from the 12/16/08 meeting. He stated that since the access is through a private road the Commission asked for traffic counts for similar type facilities. He stated that a study was done and they looked at peak periods. The average would be 62 trips in the morning and 93 trips in the evening hours. He stated that it is a low traffic volume project. He stated that the Commission would still have control when going through the process when making sure that the specifics of the application are sufficient to address all the issues.

He stated that there were some comments made at the last meeting and there has been a response from VCOG that residential is not compatible with LI. He stated that this zone has been in effect since 2000; and certain residential were permitted that might be compatible. He stated that this change would permit a continuing care retirement community in the IC Zone. He stated that the Commission needs to decide if it would be appropriate in the two areas that are zoned IC and also whether it would be beneficial to the town. He presented a study that he did on the IC Zones. There are approximately a total of 247 acres in the IC Zone and three parcels are classified as farm land. His study showed what the current assessment is and what the current taxes are that are generated from this land. He also did a study showing what the taxes could be if there was no farm land or municipal land. This would be a very substantial tax generation to the town.

Atty. Thomas stated that there was some discussion about a "pilot" and there is no "pilot" until we go forward but with respect to the development there will be a discussion and negotiation for the "pilot". He also stated that there was a reference to retail and the retail that would be proposed would be only for the residents and they would be able to have a small convenience store only for the residents.

Mr. Rogers asked what hours were considered in the traffic study and Atty. Thomas stated that 8:00 to 9:00 a.m. and 4:30 to 5:30 p.m. Mr. Jalowiec asked if there is any information on how other towns handle this type of development.

Atty. Thomas stated that Shelton uses a PDD concept and other towns that have these types of developments direct them to areas that they feel are appropriate for them. Mr. Joyce stated that some towns use an overlay zone to permit this type of development and some add it as a special exception use. Mr. Estwan stated that in reading through the documentation submitted it states that a public hearing would be required and there are other conditions which give the Commission similar controls as that of a special exception. Mr. Joyce stated another point raised at the last meeting was why the IC

zone and what size property does a project like this need. Atty. Thomas stated that in looking at this type of project you would be looking at a property that has buildable area of 30 to 50 acres. It would not be suitable for inner city it is more suitable for areas that are away from the city. It is a campus type setting.

Chm. Estwan read a letter from VCOG dated 12/16/08 from Daavid Elder, Senior Planner to VCOG representatives which indicates that there would be no negative intermunicipal impacts from this type of development. A letter from VCOG dated 1/9/09 stated that they voted to adopt the staff recommendation that there is no negative regional impact. However, it was the consensus among the Commission that a residential use in the I-C Zone is a deviation from the existing and original intent of the Zone as light industrial.

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

Marc Garofalo, 95 Academy Hill asked if there was a draft agreement to adopt this matter this evening. Chm. Estwan stated that there was no. Mr. Garofalo stated that the "pilot" has not been adopted by the City and it is not appropriate to speak about specific funds that would be generated from this project. He felt that it was unfair to speak about this. He stated that the issue of special exception or provisions that may look like special exception are really not special exception. He urged the Commission to reject this but if it is approved make it a special exception use. He also stated that he attended the VRPA meeting and they were very clear that it is going into two zones and cautioned that if approved it would dazed other types of development. He also felt that the analysis presented by Atty. Thomas was unfair to use and does not paint the whole picture. He felt that the Commission should let the entire public look at these two zone and decide what would be best. He felt that it does not conform to the plan of Conservation and Development. He felt that the public should be allowed to review a draft proposal before it is acted on.

Chm. Estwan stated that the application is for zone text change for a continuing care retirement community and the Commission needs to determine if it is a valuable asset to the town and region. Mr. Joyce stated that at this time there is no process for special exception in the I-C Zone. Chm. Estwan stated that this is not just about housing; there is a housing element involved. He stated that the Commission needs to decide if this is good for the town and these zones. We will still have control over what goes where. Mr. Jalowiec stated that the town did not really want a lot more housing in the City because of the tax burden of housing. He stated that this was why this kind of zone was developed and wanted to have some flexibility. This is about a low impact type development that we wanted to put in these zones. Mr. Estwan stated that several years ago there was something about specialized housing but there was no definition of specialized housing in that zone or anywhere else. He felt that was what we were alluding to, that if a concept came before us we would entertain that. He felt that this was a perfect concept that the Commission should entertain. Mr. Barboza stated that perhaps the Commission should have a special exception use so we have more control. Mr. Estwan stated that we have language that covers special exception with the multiple

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step process. Atty. Coppola stated that the I-C Zone has a much more detailed procedure in going through an application than any other zone. The Commission has a lot more discretion in this zone.

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

New Business

(a) Application for Zone Text Change from Wesleyan Homes of Connecticut, Inc. - Text Amendment to add Continuing Care Retirement Community (CCRC) and associated design standards to the I-C Zone and to add standards for private roadways and driveways in Section 195-26Q and LL. (Application #2008-11-18-2).

Chm. Estwan stated that during the public hearing he did not see anything that the city engineer or the Commissioners wanted technically changed on this application. The comments made were outside the Planning & Zoning area. It is a very detailed application and it is for a text change. Mr. Barboza asked about the road issue. Mr. Joyce stated that the way it is drafted unless it is built to city standards it would not be accepted as a city street. He would have to meet the requirements of the ordinance and zoning regulations.

A motion to approve the application effective February 9, 2009 was made by Mr. Estwan, seconded by Mr. Barboza and carried unanimously.

Old Business

(a) Update on Redevelopment Zones

Atty. Coppola stated that there was no meeting held this month but there seems to be a large increase in requests for information regarding the downtown area and the DOT parcel.

(c) Update on Enforcement Issues.

Atty. Coppola stated that there are two residential properties that need some attention that are going to litigation. There are two commercial properties that are high priority issues. He stated that he has been in contact with them and they are having survey work done to figure out what has been work has been done that was approved and what was not.

Payment of Bills

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

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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.

Respectfully submitted,

Maryanne DeTullio, Clerk

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