

# ***Planning and Zoning Commission City of Derby***

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

Richard A. Stankye

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez

Anthony Szewczyk, Alt.

Maryanne DeTullio, Clerk

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, May 15, 2012 at 7:00 p.m. in the Aldermanic Chambers, 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, Albert Misiewicz, Richard Stankye, Raul Sanchez and Anthony Szewczyk. Also present were Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

## Additions, Deletions, Corrections to Agenda - None

## Correspondence

Mr. Estwan stated that no correspondence had been received.

## Public Portion

Dan Waleski, 21 Elm Street stated that there are a lot of blight issues in town. He stated that he is bringing this to the attention of the Commission to possibly consider adding to the zoning regulations to make them stricter.

## Approval of Minutes

A motion to approve the minutes of the 03/30/12 meeting was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously.

## Acceptance of Applications

Mr. Stankye moved to accept an application for CDD approval from M. Jacobs & Sons for signs on the building and on a building on adjacent property. The property is located at 2 Factory Street. The motion was seconded by Mr. Szewczyk and carried unanimously.

## Public Hearing:

(a) Application from BAMF Homes, LTD for 5 lot subdivision at 16 John Street (Application #2012-02-21-02) – Continued from 3/30/12.

Atty. Dominick Thomas was present for the applicant and stated that they would like to address some items that were brought up at the public hearing in March. He submitted a letter from WPCA indicating that the subdivision can be serviced by sewers. He stated that they

addressed some of the issues in the Milone & MacBroom letter and believe that the proposal made is in compliance with the regulations. He stated that they had a meeting to discuss the issues with the flag lots. He stated that the two flag lots are generally behind the front lots even though the accessway to Lot 5 crosses over in front of Lot 4. Atty. Thomas stated that they had a meeting with the corporation counsel and Ryan McEvoy to discuss some of the technical issues regarding the buffers. They have changed it to evergreens rather than white pines. He stated that they will work with staff on the appropriate evergreens to use for the buffers. He stated that he did not see anywhere in the regulations that they need to show an alternate plan but the engineer did do a plan showing four lots in the front and one lot in the back. This is a very congested and dense configuration. He stated that the original proposal presents a much greener and appropriate streetscape; not four houses lined up. He stated that the disturbed area in the upland review area is done only with grading and reseeding and then becomes lawn. There will also be a split rail fence all the way down.

Jim Rotondo, engineer stated that the plans have been revised to address some of the issues in the review letter from Milone and MacBroom. They have extended the landscape buffer around the lot lines on Lot 5. He stated that there was a question on the width of the rear of Lot 5. That has been adjusted and it now conforms to that regulation. He stated that the wood chips and debris will be cleaned up and that area seeded. He stated that notes have been added regarding the potential footing drain locations to the house footprints. There is also a note added concerning the treatment of the utility trench repair in John Street. Mr. Rotondo stated that the Fire Marshal requested that the driveway width be widened to 15 feet. He stated that what they propose to do to maintain a 12 foot wide pavement width but installing 18 inch gravel shoulders on each side for a total width of 15 feet as a travel way. He stated that he tried to contact the Fire Marshal regarding this but did not speak with him but understood that Mr. McEvoy did speak with him regarding this.

Mr. McEvoy stated that in regards to the landscape buffer and the maintenance of the buffer, the flag lot regulations require that the buffer strip shall be recorded on the deed as a restrictive covenant and maintained by the property owner. He stated that he did speak with the Fire Marshal and informed him of what they are now proposing. He stated that his major concern is that it gets cleared in the winter so that there is proper access from the driveway. He stated that with regard to the placement of the landscaping, they have added landscaping between Lots 2 and 4 to provide screening between the houses. He stated that there are still concerns about the configuration of where the screening is. He stated that some clarifications have been to the plans to tie this and the Wetlands approval together. He stated that there are some outstanding comments regarding the subdivision map and he did not know if they have been submitted or not.

Mr. Sanchez stated that there were a lot of comments at the last meeting regarding the runoff and flooding. He asked what the before and after runoff will be. Mr. McEvoy stated that the applicant has demonstrated through calculations that the runoff will remain the same or be decreased during certain storm events. He stated that during the Inland Wetlands review was to address the direct runoff from the driveways from smaller storms. He stated that they have added infiltration and trenching along the proposed driveways to capture the runoff and have performed test pits.

Mr. Szewczyk suggested that they consider using brick pavers instead of gravel on the sides of the driveway. Mr. Estwan stated that he had some concerns with the gravel on the sides of the driveway and would not provide enough access to the rear. He stated that the Fire Marshal requested this and he would like to hear directly from the Fire Marshal on this change. Mr. Rotondo stated that what is really critical is the base that will be driven on and it is a gravel base. He stated that the intent is more for a structural base for vehicles.

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

Karen Kemmesies, 25 John Street stated that she spoke at the last meeting and raised concerns about traffic and runoff. She stated that it doesn't appear that there are a lot of changes from the last meeting. He stated that there are traffic issues on John Street now and if cars park on the road it becomes a one lane road. She felt that these houses will add to the traffic problems. She stated that the configuration of the intersection at the shopping center and Sodom Lane does not function well for John Street. She stated that as far as drainage she was concerned that with a major storm event there will be a lot of water coming down. She stated that the area will become less permeable and the water will not be going into the ground as easily. She felt that this will just aggravate the situation even more. She stated that she is concerned with the runoff onto her property. She stated that the zoning laws have been written to protect the neighbors and the City and to make sure that everything is satisfactory for everyone in the future. She did not feel that this design is protecting the neighborhood or the City. She is concerned that her house will be under water from the runoff of this project.

Mr. Estwan asked if she currently has a water issue. Mrs. Kemmesies stated that if the front yard stays dry she does not have a water issue. She stated that if the front yard gets saturated she does get water in the basement. She stated that if there is a major storm event she will have problems. Mr. Estwan asked Mr. McEvoy if he looked at the storm drains in John Street. Mr. McEvoy stated that the raised storm drain is on Sodom Lane. Atty. Thomas stated that the storm drain comes down and cuts through her backyard. Mr. Estwan stated that he does not want to have any more runoff to add to this situation.

Drew Perry, 27 John Street stated that there are traffic issues now and by adding more houses it will add to the traffic. He was also concerned about drainage issues and does not see how there will not be an increase in runoff.

Dan Waleski, 21 Elm Street stated that a special exception is not called for in this situation. He stated that the area is already congested and there will be an increase in traffic. He stated that the traffic patterns are already poor in this area.

Mr. McEvoy noted that the applicant is seeking a waiver for the open space and asked the Commission how they felt about that. Mr. Estwan stated the Commission has waived in the past and this is a large enough area that we could look into that. Mr. McEvoy stated that there are areas that are protected by wetlands and those areas could become more formally protected with a conservation easement.

Mr. Szewczyk stated that this entire has water problems. He stated that in the old days there was nothing in this area but a large pond. He wondered if the construction in the area has

messed up the drainage in this area. Atty. Thomas stated that all the drainage runs into Two Mile Brook which runs underneath the shopping center and comes out to Route 34 into a large culvert.

Atty. Thomas stated that test pits were done and were supervised by the city engineer. He stated that if there is an issue with the intersection that should be discussed with the traffic authority. He stated that there will be some road cuts done and the road repair will be curb to curb and not just a patch job. He also stated that only the flag lots are a special exception, the rest of the project is a subdivision. He stated that there are some technical issues that the surveyor needs to address. Mr. McEvoy stated that there was an issue with monuments where necessary. There was also a minor change in the rear portion of Lot 5. There was a question raised about the relationship between John Street and the right of way as it is shown on the map. He stated that the public hearing could be kept open to provide that information.

Mr. Estwan stated that a lot of points were brought up and the developer has the right to develop the property as residential because that is how it is zoned. However, the Commission has to protect those that exist and to be fair to all. He stated that he did not want any activities to add to make a situation that is negative more negative. He stated that he would like to see a more standard display of houses along the road. He stated that personally he would like to see three maybe four with nothing in the back. He stated that the concern for this Commission if not the applicant's right to develop; it is just making it the best suitable development for the existing area and the conditions around it. He stated that he would like to keep the public hearing open and one of the things he would like to see are comments from the Fire Marshal on the gravel driveway.

Mr. Misiewicz asked how the gravel shoulders affect drainage. Mr. McEvoy stated that it could allow for more infiltration. Mr. Misiewicz asked about the drainage reports that were submitted. Mr. McEvoy stated that the calculations are based on standard engineering practices. He stated that the report was looked at for accuracy and the way existing conditions are depicted. He stated that an extensive review of the drainage was done during the Inland-Wetlands process. Mr. Sanchez asked if the driveway is included in figuring out the lot coverage and Mr. McEvoy stated that it is not.

Mr. Stankye asked about the footing drains and Mr. Rotondo stated that they discharge into the surface in several locations and in others into the infiltration trench areas. Mr. Stankye asked if the roof leaders were the same. Mr. Rotondo stated that all the roof leaders and drainage are being tied into infiltration chambers.

Dan Waleski, 21 Elm Street stated that he is against this application.

Karen Kemmesies, 25 John Street stated that the system is undersized now and can only handle a 50 year storm and that is why there is a water problem on Sodom Lane. She stated that the system can't handle any additions. She stated that the test were showing that there is ledge relatively close to the surface and the city engineer indicated that those would be dealt with after the application was approved. She stated that she would like to see that addressed during the planning stages rather than out in the field when it is difficult to make changes.

She stated that there are unique conditions on John Street and a very wet area. She stated that any changes in that area will have dramatic changes.

Mr. Szewczyk asked about the detention system and will the amount of water retained on this site be the same as if there no houses. Mr. Rotondo stated that it would be. Mr. Rotondo stated that it becomes part of the groundwater.

Atty. Thomas stated that the applicant will grant an extension to keep the public hearing open. A motion to continue the public hearing to the June meeting was made by Mr. Szewczyk, seconded by Mr. Stankye and carried unanimously.

### New Business

(a) Application from BAMF Homes, LTD for 5 lot subdivision at 16 John Street (Application #2012-02-21-02).

A motion to table this application since the public hearing is still open was made by Mr. Sanchez, seconded by Mr. Misiewicz and carried unanimously.

(b) Application for CDD Approval from Angelo Giordano for 59-65 Elizabeth Street for renovations for 14 apartments – Application #2012-03-20-01.

Angelo Giordano stated that he has not been able to rent the space for commercial use and would like to convert to 14 apartments; one bedroom or efficiency apartments. He stated that he will also be bringing the building up to Code. There is all residential in the rear of the property.

Mr. Estwan stated that a review letter was received from Milone and MacBRoom and aksed the applicant if he was going to address the comments in the letter. Mr. Giordano stated that the handicap parking will be no problem. He stated that regarding the third floor he will not be doing anything there and not be adding any floors.

Mr. Estwan stated that this application is for CDD review and that based on our Plan of Conservation and Development and zoning for the CDD we are taking commercial or office/professional space and converting into apartments. This contradicts anything that this Commission wants to do for the downtown area. He stated that the only time that the Commission looks to allow residential in the downtown is if it is mixed use. Mr. Giordano stated that the first floor will be commercial. Mr. Estwan stated that the second floor was office space. Mr. Giordano stated that there is no need for office space in town. Mr. Estwan stated that Commission should be putting a plan in place based on the regulations and the Plan of Conservation and Development is to plan for the future and not change as the economy changes. He stated that the Commission needs to look at what is best for the downtown in the long term. It is a difficult time but to change and accept something that does not correspond to the zone is not the thing to do. He stated that fourteen apartments adds nothing to the community. Mr. Giordano stated that this will bring people into the town. He stated that he has not been able to ent the space for the last several years and needs to bring the building up

to Code. He stated that he is leaving five stores as commercial use on the first floor and is just asking for the second floor to be residential.

Mr. Stankye stated that he did not feel that the Commission should hear this application tonight as we do not have all the information. He stated that the applicant indicated that he had a real estate study done to see if this type of project is feasible and that is something that the Commission should see. He stated that the Commission does not want to see anymore lower income housing in the City. Mr. Estwan stated that the Commission wants to see the downtown area filled with commercial or professional offices. It does not want to create more apartments; it wants to create businesses. Mr. Estwan stated that he is asking for a total of 14 apartments with no data to back up that this is a feasible application. Mr. Giordano stated that there are actually two buildings and the building in the rear has three stores there. Mr. Estwan stated that the applicant needs to submit something that shows that this is good for the downtown area.

Mr. Szewczyk asked if he were able to put in an elevator would that make the second floor more attractive for office. Mr. Giordano stated that it is not worth it to put in the elevator because of the cost. Mr. Szewczyk stated that the cost to renovate the space into apartments would be high and he felt that he could put in an elevator and make the second floor more compatible for business. Mr. Stankye stated that he has not submitted any concrete information to show that this is something that is good for the downtown area.

Mr. Stankye suggested that he speak with the building official and Economic Development Director to see if this is a feasible alternative and also provide more information to the Commission. Mr. Misiewicz asked about the commercial space on the first floor. Mr. Giordano stated that it is in good condition but would have to add a sprinkler system. He stated that the stores in the front are rented but he just wants to update the building. Mr. Stankye asked if there is anyone in the back building. Mr. Giordano stated that there is not and he is trying to remodel it.

Mr. Estwan stated that the Commission has an application and is discussing the appropriateness of the application. There are a lot of reasons not to support it but there is not a lot of background information to support it. He stated that it is not in the CDD regulations to promote housing in the downtown area. Mr. Giordano stated that there is residential across the street from the rear building. Mr. Stankye stated that the Commission needs to see evidence to support this application. Mr. Misiewicz stated that he felt that mixed use was a good idea and there is a third floor that could have apartments on it.

Mr. Estwan suggested that the applicant consider the comments made this evening and come back. He stated that he is not in favor of fourteen apartments and would like to see a better missed use plan.

Mr. McEvoy noted that the applicant will have to grant an extension to the next meeting. Mr. Giordano stated that he will grant the extension. Mr. Estwan moved that this applicant be tabled and continued to the next meeting. The motion was seconded by Mr. Stankye and carried unanimously.

Old Business:

- (a) Update on Redevelopment Zone.

There was no report on the redevelopment zone.

Executive Session

- (a) Update on Enforcement issues; discussion of pending litigation.

There was no reason to have the Executive Session and no report on enforcement issues.

Payment of Bills

Mr. Misiewicz moved that the following bills from Milone and MacBroom be paid. – Invoice #59460, #59461, #59462, #59464, #59465, #59840, #59841 and #59842 be paid. The motion was seconded by Mr. Stankye and carried unanimously.

A motion to adjourn was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously. The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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

***Aquifer Protection Agency  
(Planning and Zoning Commission)  
City of Derby***

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

Richard A. Stankye

Albert Misiewicz

Glenn H. Stevens

Raul Sanchez

Anthony Szewczyk (Alternate)

Maryanne DeTullio, Clerk

The regular meeting of the Aquifer Protection Agency was held on Tuesday, May 15, 2012, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 8:45 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Albert Misiewicz, Richard Stankye, Raul Sanchez and Anthony Szewczyk. Also present were Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

Correspondence - None

Public Portion

Dan Waleski, 21 Elm Street commended the Commission for having this board and taking up these issues.

Approval of Minutes

A motion to approve the minutes of the 03/20/12 meeting was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously.

Acceptance of Applications

There were no new applications to accept.

A motion to adjourn was made by Mr. Stankye, seconded by Mr. Misiewicz carried unanimously. The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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