

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, October 16, 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, David Rogers, Raul Sanchez and Anthony Szewczyk. Also present were Attorney Joseph Coppola, Corporation Counsel, Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

Mr. Rogers moved to add to Item 7 the approval of the 6/19/12 minutes. The motion was seconded by Mr. Sanchez 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 the September 18, 2012 meeting was made by Mr. Rogers, seconded by Mr. Sanchez and carried unanimously.

A motion to approve the minutes of the June 19, 2012 meeting was made by Mr. Sanchez, seconded by Mr. Rogers and carried unanimously.

Acceptance of Applications

Chm. Estwan noted that there were no new applications to accept.

Public Hearing:

(a) Application from Brookside Development LLC for 8 lot subdivision with flag lots at 410 David Humphreys Road – Application #2012-06=09-04 – Continued from September 18, 2012

Mr. Sanchez recused himself from hearing this application. Mark Nuzzolo, applicant, stated that they have received approval from WPCA for sewer connections. He also presented a

copy of the minutes from the Police Commissioner's meeting and noted that under Traffic Authority business there was a motion to approve the driveway entrance and exit for this project from David Humphreys Road. The approval had the stipulation that it was pending receipt of safety data for David Humphreys Road.

Mr. Nuzzolo stated that the Commission had requested that they look at the possibility of using the Sodom Lane driveway as an entrance and exit. Alan Shepard stated that the Lowe's parking lot is right off their property and it is important to note the relationship to this project. The homes would look directly into the commercial development. Mr. Estwan noted that the deputy police chief accepted the David Humphreys Road driveway only because the Sodom Lane one does not comply. Mr. Shepard stated that Sodom Lane has a curve and the sight line distances are limited. He stated that they would have to put in a retaining wall on a slope that is at its maximum. He stated that this would result in a whole different project and it would be difficult to achieve and he did not think that anyone would like it. Mr. Nuzzolo stated that he has entered into easements with two neighbors for sight lines, which will give them additional sight line distances. Mr. Shepard stated that they have also obtained easements to clear trees and open up the sight lines. Mr. Nuzzolo presented copies of the agreements into the record. Mr. Shepard stated that they could now get up to 500' sight lines.

Mr. Estwan asked if there were any outstanding issues from the Milone and MacBroom review. Mr. McEvoy stated that there are some minor revisions to the plans that need to be done and the revised plans have not been submitted. Mr. Nuzzolo stated that they will satisfy everything in the review letter. Mr. Estwan asked for any public comment on the application.

Mike Alberta, 325 David Humphreys Road asked when the Commission expects to receive the safety study for David Humphreys Road. Mr. Estwan stated that it is being done at this time and he did not know when it would be completed. Mr. Alberta asked about the garbage pick up and if they will be going into the property. Mr. Nuzzolo stated that he has spoken with the company handling the garbage pick-up but was not sure how it will be done. He stated that if the truck can go into the property it would be preferable and if not will be picked up at the street or by a private company.

Mr. Rogers asked about the sight lines and Mr. Shepard stated that they are at least 375' and could get up to 500' feet over the yards. They will raise the driveway and clear out some vegetation.

Karen Kemmesies, 25 John Street asked who will be maintaining the rain gardens and if they will be maintained by the association or the individual property owners. Mr. Nuzzolo stated that the individual property owners will have the primary responsibility and the Association will have the secondary responsibility. He also stated that there will be restrictive covenants in the deeds.

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

(b) Application from Buckingham Estates, LLC for 2 lot re-subdivision at 8 Buckingham Road – R-1 Zone – Application #2012-07-17-01, continued from September 18, 2012.

Attorney Dominick Thomas, stated that Lot 1 is in Derby and Seymour. He also stated that one issue from last month's meeting had to do with how lot width is measured. He presented copies of the regulations. He stated that they took every possible interpretation of the regulations and averaged them. He also stated that the purpose of lot width regulation is to prevent lots of unusual shape. He stated that the language is conflicting and the different ways that they measured all come out to be greater than 175'.

Jim Swift, engineer stated that the sight line distances were also an issue from last month's meeting. He stated that they did field measurements and those have been added to the plans. He stated that the sight line from Lot 3 looking north is 215' and looking south is unlimited. From the rear driveway it is 212'. He stated that both are in excess of the State regulations. He stated that they can have an easement on Lot 3 so that the sight line distances could be maintained and that is shown on the plans. He submitted the revised plans. Mr. Estwan stated that this is the first time that the revised plans are seen and they have not been submitted to the building official's office. Atty. Thomas stated that the changes are in the sight lines. He stated that they still have to go to the Town of Seymour Zoning Board of Appeals to get variances. Mr. McEvoy asked if they had the approval from Valley Health for the septic systems, which are subject to the zoning variances from the Town of Seymour. He also stated that drainage calculations need to be updated. Jim Swift stated that some items on the Millone and MacBroom letter are procedural and they will comply with them. He stated that additional testing will also be done.

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

Chm. Estwan stated that the revised plans have not been on file for the public to review and he asked that the applicant grant an extension so that the public hearing can be continued to the November meeting. Atty. Thomas stated that the applicant will grant the extension. A motion to continue the public hearing was made by Mr. Szewczyk, seconded by Mr. Rogers and carried unanimously.

(c) Application from Derby Dan LLC for 14 residential apartment units at 59-65 Elizabeth Street, 58 Minerva Street – CDD Zone – Application #2012-09-18-02.

Atty. Dominick Thomas, 315 Main Street representing the applicant submitted the certified mailings and list of property owners. He stated that this is a public hearing but the Commission decided but no public hearing is required. He stated that this is an application for site plan approval for a residential use which is permitted in the CDD Zone. He stated that this is not a special exception but a site plan application. Atty. Thomas stated that this was already approved by the Commission and there is now a revision. It is under appeal because of the notice requirement. He stated that the plans were revised slightly. He presented architectural plans which address some of the issues. Atty. Thomas referred to the Milone and MacBroom review letter dated 10/11/12.

He stated that the property is located within 300' of a municipal parking garage and therefore off-street parking requirements are waived for existing commercial uses only. He stated that the other than the employees of Dr. Soferman, no one else parks inside the parking garage. He stated that they would have to park in the municipal parking garage so that the inside spaces would be dedicated for the apartments. He also presented pictures of the parking garage showing that there are spaces available for the commercial use.

Atty. Thomas stated that the review letter refers to parking space #20 and that it does not meet the minimum dimension of 18' long which is required by Section 195-53b. The letter also states that the aisle between the parking spaces does not meet the minimum width. Atty. Thomas referred to the parking plan and stated that this is a residential indoor parking and not a commercial/retail parking lot. He stated that traffic will not be pulling in and out on a constant. There will be assigned spaces and the space that does not meet the size is identified for compact cars. He also stated that this more than accommodates the use and can be considered sufficient for off-street parking to accommodate the apartments. He stated that the other issue is that it must be 1.5 per unit and the Commission has the flexibility to look at this regulation. He stated that there are only three two bedroom units and the others are a mix of one bedroom and efficiencies so that the available spaces are sufficient. He also noted that the parking garage that exists actually already has emergency lights and an electric garage door operation. He stated that the applicant has not decided whether he will continue with a card or a fob or something of that nature. He stated that it is not a situation where someone would be stacking or queuing out into the street. He stated that this also addresses the marketability of these residential, which are permitted in the zone, as having indoor secure parking.

Russell Larrabee, architect stated that there was a question regarding the surface of the existing brick. He stated that this is above their construction area and will not be disturbed. He stated that the brick will be chemically cleaned. He stated that there also was a comment on the vacant space on the Minerva Street side and that vacant space will be a non-occupied space and will housing electrical, duct work, sprinkler system and things like that. They will have access to that from the garage side for maintenance.

Mr. Larrabee stated that he shows a dotted line on the plans which represents the guard rail so that the tenant would be able to get to the apartment from the garage and not have to go through the outside.

Atty. Thomas stated that he felt that they have addressed all the concerns raised in the review letter.

Mr. Estwan asked if anyone parked in the garage at this time. Atty. Thomas stated that the employees of Dr. Soferman park there. Mr. Estwan stated that he assumes that they will have to use the parking garage if this is approved. Atty. Thomas stated that whatever the circumstances are between the landlord and tenant. Mr. Estwan stated that the concern the Commission has is if something is approved based on the number of parking spaces and the amount of apartments and then there an additional six spaces. Atty. Thomas stated that the employees will not be able to park in there and the landlord was told about using the municipal

garage and he could make arrangements to have them park there. There will be dedicated spaces for the residents.

Mr. Szewczyk stated that the commercial spaces in the building now will go to the residents of the apartments. He asked how many will have to use the municipal parking garage and Atty. Thomas stated that at most it would be twenty.

Mr. McEvoy stated that the regulations require that the aisle width for 90 degree parking with two way off street parking areas shall be 24'. Atty. Thomas stated that there is flexibility in the parking regulation and it makes reference to a special exception. It states that an applicant can request and the Commission may approve a special exception to reduce the number of parking spaces. He stated that they are not reducing spaces and just saying that the space can accommodate the residential use and a smaller size space and they feel it is sufficient.

Mr. Estwan asked the size of the efficiency units. Mr. Larrabee stated that they are approximately 600 square feet but he was not sure and will verify the size. Mr. Estwan stated that he was concerned that they will be too small. Atty. Thomas stated that these apartments would have secured indoor parking available.

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

Dr. Bruce Soferman, business address 61 Elizabeth Street. He stated that the parking lot is dangerous and it is difficult coming out as you cannot see and have to be very careful when existing. He stated that there is no ventilation and there are no keys or electric openers. He stated that there have been burglaries there and it is not in good condition.

Frank Cirino, 12 Old Town Road, Seymour representing the Elks stated that they were concerned that they will not get the right kind of people renting these apartments. He felt that it should remain as commercial space. He also stated that there is not enough parking.

Attorney Margery Shansky, 16 East Grand Avenue, New Haven, representing Dr. Anita Dugatto, whose building is next to the subject property. She stated that Section 195-20f and h refer to the standards for this zone being met in order to support the density. She stated that there are too many units and no recreational space. Atty. Shansky stated that as of right use is only such if the standards that are required to be met are met and this application fails to meet those standards. She stated that the fire marshal wrote a letter about the previous plans and asked he has commented on this application. Mr. Estwan stated that he has not received any correspondence from the fire marshal. Atty. Shansky asked whether he has seen the plans because one of the key elements of the previous plans had to do with this property using her client's property for egress from the second floor. She stated that access is limited only to commercial uses and exists by license agreement and is not a permanent access. She stated that since this is a residential use it will violate that license and it will be revoked. She stated that the fire marshal needs to verify that sufficient egress are maintained in the building to support the number of units. She stated that she spoke with the fire marshal at the end of September and he had not seen anything new that this exist is going to be abandoned. She stated that they would like it to be a requirement of any approval that it be

permanently abandoned and made certain that no one will trespass onto her client's property. Mr. Estwan asked if they would enter into the record a copy of that license agreement. Atty. Thomas stated that they have eliminated that exit. Mr. Estwan stated that he will make sure that the fire marshal gets a copy of the plans.

Atty. Shansky stated that with respect to the prior approval, in the event that this application is approvable that the Commission indicate that the prior approval is voided and superseded by whatever future or present action is taken. Atty. Shansky spoke on the parking lot and stated that it does not serve the future occupants and there is no latitude to waive the requirements of the regulations. She stated that pictures were submitted of available spaces but felt that a letter from the Parking Authority should be obtained verifying that spaces are available.

Keith McLiverty, 15 Academy Hill asked about fire and emergency vehicles entering that building. He also stated that in the minutes of the previous application there was a reference to alternative housing and he asked what that was.

Bob Saltsback, 165 Minerva Street stated that this area is very dangerous and there is a lot of traffic speeding on that road.

Gwen Stabor, 187 Minerva Street stated that the municipal parking garage is used extensively by the senior citizens and the elevator is used all the time and it is not in good condition. She felt that adding more cars to the garage will only add to a crowded garage. She felt that the senior citizens will end up having to use the upper levels.

Mark Izzo, 328 Olivia Street asked when the pictures of the parking garage were taken. Atty. Thomas stated that they were taken at 3:30 p.m. today. Mr. Izzo asked if the requirement of 1.5 spaces per unit was a state law or a City of Derby regulation. Mr. Estwan stated it was a requirement in the City of Derby. Mr. Izzo stated that he felt that should be increased to two spaces. He also did not feel that the garage does not have enough parking spaces. He stated that it gets a lot of use especially on certain days when the seniors use it. He also did not think that a waiver for the size of the spaces should be granted.

Roger Birtwell, 8 Third Street stated that the architect pointed out that he did not know the size of the efficiency units and he asked when a more finalized comprehensive plan may be submitted. Mr. Estwan stated that the Commission asked for certain things and he was sure that they would submit those for next month's meeting.

Tom Lionetti, 79 Sunset Drive stated that redevelopment should be happening and he did not see why more residential units were being put in. He felt that there should be more retail space.

Anita Dugatto, 69 Elizabeth .0Street stated that she did not feel this was good for the City. She asked if the applicant tried to use a realtor to rent the commercial space and felt that commercial uses would be better for the City.

Mr. Estwan stated that he had noted during the last public hearing that he did not feel that residential is a good idea unless it is a mixed use. He stated that this Commission has certain regulations but the Commission does have some leeway and some planning discretion which they will adhere to and use as we go through this process.

Atty. Shansky submitted a copy of the Licensing Agreement which is recorded in Volume 365, Page 102 of the Derby Land Records.

Atty. Thomas stated that we respect to the size of the apartments that is a Building Department issue. He stated that this Commission is approving the number of units but the sizes could change. Atty. Thomas stated that the Partnership for Strong Communities, which advocates alternative housing, and many people are choosing to rent and not buy. He stated that there are 280 apartments going up in downtown Shelton. He stated that modern planning and zoning, urban redevelopment include a residential component. He stated that Derby has two major roads and three major transportation entities that all cross at one single point, the railroad station. He stated that development now is transportation based development. Atty. Thomas stated that the Commission is acting administratively in this case as residential uses in the CDD Zone are permitted uses. He stated that his client has marketed the property year after year for commercial and retail uses and has not gotten any tenants. He has made improvements to the façade and will be making small apartments that will not be filled with children. The smaller ones will not be conducive to children. He also stated that commercial uses would require much more parking and generate more traffic. He stated that as far as the number of spaces if it needs to be adjusted they would be willing to do that. He also stated that the emergency exit referred to on the second floor of the Elizabeth Street building; is a door leading to the fire escape. The fire escape will be disconnected from the applicant's building.

Mr. Larrabee stated that they have taken the existing door and it will be filled in with masonry and create an utility room in front of it. They will be creating another means of egress at the other end of the hall that is closest to the garage. There will be enclosed stairs going through the parking garage directly to the outdoors.

Mr. Estwan stated that this is the first time in the downtown for an adaptive re-use. He stated that is the reason for a lot of the questions regarding the size of the apartments and how the building will look. He stated that they need to make sure it is tastefully done and laid out properly.

Atty. Thomas stated that the Building Department requests ten sets of plans. He also stated that the Fire Marshal issues are code issues and they are trying to propose a quality product to take advantage of a booming market. He stated that his client has already improved the building and his commitment to maintaining it will remain. The first floor will stay as commercial. Atty. Thomas stated that they have tried to address all the issues and concerns raised.

Tom Lionetti, 79 Sunset Drive asked if the existing commercial uses were to leave could the applicant automatically make more apartments. Mr. Estwan stated that the applicant would have to come back with another application.

Roger Birtwell, 8 Third Street asked if there is a comprehensive plan for the downtown area. Mr. Estwan stated that this board is both planning and zoning. This application is a re-use of an existing building.

Dr. Bruce Soferman, 61 Elizabeth Street stated that there should be some recreational space in the building. He also stated that the Commission should consider the welfare and safety of the citizens of Derby.

Frank Cirino, 12 Old Town Road, Seymour did not think that it would be easy to rent the apartments. He was also concerned about traffic.

Mr. Rogers stated that he looked at the floor plans and he does not see families living in these apartments. He stated that redevelopment originally spoke about getting a critical mass of people in the downtown area and now it seems to be more for commercial. Mr. Estwan stated that we need a critical mass and a mixed use. He stated that in looking at Shelton they have full businesses and it is easier to development when you have that already in place.

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

(d) Application from BAMF Homes, LTD for five lot subdivision at 6 John Street – R-3 Zone – Application #2012-09-18-03.

Atty. Dominick Thomas, 315 Main Street, Derby was present for the applicant and submitted the certified mailings. He presented a copy of the August 8, 2012 Inland Wetlands minutes regarding the discussion and approval of the subdivision. He stated that this project is under appeal of the original approval. He stated that they have submitted the plans for the new configuration. He stated that this is the same four/one proposal with a few minor changes.

Atty. Thomas stated that the flag lots do comply with all the standards. He stated that the WPCA letter was submitted with the previous application and it is acceptable and he asked that it be made part of this hearing. He stated that along the entire wetlands, approximately five feet from wetlands boundary there will be a split rail fence.

Jim Rotondo, 25 Brook Street, Shelton stated that this is a five lot subdivision in the R-3 Zone. There are four front lots along John Street and one flag lot. He stated that each of the frontage lots exceed the minimum lot size of 15,000 s.f. and the flag lot exceeds the 25,000 s.f. requirement. There will be a 25' accessway to the flag lot. A 20 foot landscape buffer is proposed between the frontage lots and the flag lot. The split rail fence is located beginning adjacent to Sodom Lane and comes along the wetland area to the northerly portion of the site along the wetlands. Mr. Rotondo stated that infiltration galleys are proposed on each of the lot to collect roof runoff. He stated that they did soil testing and Ryan McEvoy was present during those tests and they found that there are suitable soils for that type of system. He stated that those were designed up to the 100 year storm event and the overall stormwater management system provides for zero increase in runoff for the 2 year to 100 year storm. Each lot will be served by sanitary sewer laterals and water service from existing facilities within John Street.

He stated that one of the items also incorporated into the plans was the driveway to the flag lot is 12' in width and they are providing 18" of gravel for additional travel surface along that stretch of driveway. The soil and erosion control plan conforms to the regulations. He stated that they provided details of the infiltration galleys and there was typo on a couple of the elevations and that has been corrected and a revised detail was submitted. Mr. Rotondo stated that the driveways for Lots 3, 4 and 5 have trench drains across them to catch any access runoff. He stated that Mr. McEvoy commented on connecting those trench drains into a common drain line discharging into the catchbasin on Sodom Lane. He stated that he discussed that with Mr. McEvoy and in lieu of the infiltration galleries they are going to discharge those trench drains into the overflow pipe into the catchbasin. Mr. McEvoy stated that in reviewing some testimony from the previous application that the neighbors have concerns about water coming across John Street. He stated that the infiltration galleries will assist in the reduction of runoff. He stated that by taking them down to a catchbasin on John Street there should be no runoff onto the road.

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

Drew Perry, 27 John Street asked why there won't be trench drains on the other two lots. He stated that he still feels that there are too many houses for the area. He also stated that Lot 1 is only 15 ½ feet from the wetlands. He stated that it is a narrow street and there will be more traffic with five more houses.

Frank Lipke, 20 John Street stated that it is a narrow street and this would be too many houses and much more traffic. He stated that the street cannot accommodate that number of driveways.

Karen Kemmesies, 25 John Street asked if the drain on Sodom Lane replacing all of the detention chambers specified on the drawings or if the detention chambers still going to be there.

Jim Rotondo stated that they are not replacing the detention chambers for the roof collections. He stated that the concern was that as water collected in those chambers there was the potential of overpass so now they are going to be connected to a pipe into the catchbasin and remove those chambers. Mrs. Kemmesies stated that the trench drains on Lots 3, 4 and 5 will remain. Mr. Rotondo stated that was correct. Mrs. Kemmesies stated that she hoped that the calculations were looked at all different times of the year and under different conditions. She is very concerned that the runoff will be kept off her property. The road is only 18' wide and very narrow. She also felt that there are too many houses and the City will have to dedicate no parking on the street because of how narrow it is. She also stated that a special exception should be something that is beneficial to the neighborhood and she did not feel that this warrants approval of a special exception. She felt that it should be only four lots.

Frank Lipke, 20 John Street did not feel that the pipe running to the catchbasin was a good idea and it will bring more water into the system. He also stated that there is ledge on the property.

Karen Kemmesies, 25 John Street stated that there was a hydrant almost 50' from the corner of Sodom Lane and John Street. She stated that it was not functional and they took it out. She stated that with the addition of seven houses it would be helpful to explore having a hydrant there. Mr. Estwan stated that they will be getting comments from the fire marshal.

Atty. Thomas stated that there is an existing problem there and there is no vegetation on the site. He stated that they will be creating a better situation. He stated that they are taking steps to address the concerns of the neighbors.

Mr. Rotondo stated that testing was done on the lots and locating the galleys so that they will get better infiltration. The pipe being proposed will not be putting additional water into the system.

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

New Business

(a) Application from AIA Home Buyers, LLC – Pasuale Civitella for Site Plan Approval for 253 Roosevelt Drive for site for Mr. Junker and outdoor storage area for Mr. Junker – I-1 Zone – Application No. 2012-09-18-03.

Pat Civitella and Alan Shepard were present. Mr. Civitella presented pictures of the building. He stated that he has started working on the main building on Route 34 which was deteriorating and the roof had collapsed. He has been repairing the building and has put on a new roof. He stated that all the windows have been repaired or replaced and he is cleaning up the property. Mr. Shepard stated that there is a lot more work to be done and the plan represents the overall concept. He stated that he will go through the review letter and there are things that can be done now and things that they would like to do later. He stated that they are looking for some guidance.

Mr. Shepard stated that they will relocate the sales portion of the building as recommended. He stated that concerning the drainage this property is almost all paved. He stated that they could do some of the parking area now with drainage. Mr. Estwan stated that they came before the Commission for a pre-application hearing asking for guidance and the Commission stated to come up with an overall concept knowing that it could change and based on the uses that are put into the facility. He stated that he did not think that the Commission needs to see everything done completely. He stated that they have already demonstrated that they have done a lot of work on the site. He stated that the City and Commission will work with them as they move forward.

Mr. Shepard stated that Mr. McEvoy brought up the storage area and the screening of it and whether it is the best location for it. Mr. Shepard stated that they could move the storage area and if they did they would have to add more vegetation along Park Avenue. Mr. Szewczyk asked what kind of things are stored on the site. Mr. Shepard stated that Mr. Civitella recycles things – appliances, lawn mowers and things like that. Mr. Civitella stated that it could be different pieces of equipment or other things but nothing stays there for long.

Mr. Estwan asked what they will be using for screening. Mr. Shepard stated that it will be done with plantings and it will not be seen from the road. Mr. Shepard stated that it will not be a junkyard. Mr. Shepard stated that they have a lighting plan and would like to put lights on the building now but not on the posts in the parking lot. Mr. Estwan stated that the Commission needs to see what is being put up since there is a residential area in the rear. Mr. McEvoy noted that the lighting needs to comply with the regulations.

Mr. Shepard stated that they would like to paving over what is there now. He stated that the applicant still has some work to do. Mr. Estwan stated that he seems to be going in the right direction. Mr. Shepard stated that he is looking for approval to move Mr. Junker in there. Mr. Estwan stated that they need to define exactly what they want approved. Mr. Shepard stated that they will define the phases and present that at the next meeting.

(b) Discussion and possible action – Application from Derby Dan, LLC for 14 residential apartment units at 59-65 Elizabeth Street, 58 Minerva Street – CDD Zone – Application #2012-09-18-02.

Mr. Estwan stated that the public hearing has been continued to the November meeting.

(c) Discussion and possible action – Application from BAMF Homes, LTD for five lot subdivision at 16 John Street – R-3 Zone – Application #2012-09-18-03.

A motion to table to the next meeting was made by Mr. Szewczyk, seconded by Mr. Sanchez and carried unanimously.

Old Business

(a) Discussion and possible action - Application from Brookside Development LLC for 8 lot subdivision with flag lots at 401 David Humphreys Road – Application #2012-06-19-04.

A motion to table this matter to the November meeting was made by Mr. Rogers, seconded by Mr. Szewczyk and carried unanimously.

(b) Discussion and possible action – Application from Buckingham Estates, LLC for 2 lot re-subdivision at 8 Buckingham Road – R-1 Zone – Application #2012-07-17-01.

Mr. Estwan stated that the public hearing for this application has been continued to the November meeting.

(c) Update on Redevelopment Zone.

Atty. Coppola stated he had not report at this time.

Executive Session

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

Atty. Coppola stated that it was not necessary to go into Executive Session.

Payment of Bills

Mr. Rogers moved that the following bills from Milone and MacBroom be paid. – Invoice #61425, #61426 #61427, #61428, #61429 and #61430 be paid. The motion was seconded by Mr. Szewczyk and carried unanimously.

A motion to adjourn was made by Mr. Rogers, seconded by Mr. Szewczyk and carried unanimously. The meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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