

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

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

Richard A. Stankye

David Barboza II

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, September 20, 2011 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, David Rogers and Glenn Stevens. Also present were Attorney Joseph Coppola, Corporation Counsel, 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

Chm. Estwan stated that a letter was received from Webster Bank indicting that Derby Water Street LLC has filed a letter of credit for the bonding required for their project.

He also stated that a letter was received Hillard and Einbinder, attorneys regarding environmental land use restriction at 155 New Haven Avenue. It stated that they are the attorney for Riverside Properties LLC which company is the owner of that real property. The letter enclosed a copy of the approval from the DEP for the property. Chm. Estwan stated that he will have Ryan McEvoy review this.

## Public Portion

There was no one from the public wishing to speak.

## Approval of Minutes

A motion to approve the minutes of the 08/16/11 meeting was made by Mr. Rogers, seconded by Mr. Stevens and carried unanimously. Mr. Rogers noted that under public portion Renee Llanos' name was misspelled.

### Acceptance of Applications

Mr. Rogers moved to accept an application from Winslow Landscaping, Water Street for modification to the site plan approval to allow for storage bins to be placed alongside the building. There will be parking spaces and a roof sign. The motion was seconded by Mr. Misiewicz and carried unanimously.

### Public Hearing

(a) Application for 4 Lot Subdivision from Belleview Homes, L.L.C. for 35 Belleview Drie, Lot #14, Map 2-5 (Application #2011-08-16-03).

Fred D'Amico, engineer was present for the applicant. He submitted the certified mailings. He stated that this is a two acre parcel that they would like to divide into four lots. He stated that where the proposed road is, it is now a paper street and they are proposing to construct that road with three lots on the northerly side and one on the southerly. He stated that some changes have been made to the map. He stated that there is a regulation for the width of the lots and it has a conflict. He stated that the lots are changed so that they could get the full 100 foot wide measured a different way than along just the frontage. The regulation states that it is measured parallel to the front but also has another qualification that there is a line measured perpendicular to the depth. He stated that it is somewhat confusing and after discussing with the Building Inspector and Ryan McEvoy they decided to meet both items of that regulation.

He stated that the major change is the lot line revisions. He stated that they have received Inland Wetlands approval. He stated that it drains from the end of the cul-de-sac, out a drainage pipe to a detention pond. Mr. D'Amico stated that one of the conditions of the zone change was the filing of the mylar, which was done today. He stated that Inland Wetlands also required that rail fences be put on Lots 2 and 4 so that once the houses are constructed there will be no further intrusion into the wetlands. Mr. McEvoy stated that there is approval from the Inland Wetlands for activities within the upland review area and one of those activities is the corner of the house on Lot #3 which is in the upland review area.

Mr. McEvoy went through his review letter dated September 1, 2011 but indicated that he has not reviewed the revised plans. He stated that he needs to review the plans to make sure that the lot width does comply. He stated that it appears that it has been addressed but needs to be reviewed. He stated that he needs to review the plans to make sure they have addressed all his concerns.

Mr. Estwan stated that two out of the four lots are next to existing property owners. He stated that during the zone change application it was discussed that there are currently 51 houses on Belleview Drive and one lot. They are now asking for an additional four houses and one of the concerns was that a deed restriction would be placed on this property so that it could not be developed further. He stated that he would like to have that deed restriction placed on the land records.

He also stated that he understands the reason for the lot line change to make them perpendicular to the road but it makes the lots look a lot worse. They are four odd shaped lots and it does not appear to be good planning to have them so irregularly shaped.

Mr. Estwan asked about the detention basin and Mr. McEvoy stated that the comments regarding that was mostly as a follow up to what was done during the Inland Wetlands process. He stated that they had come to the conclusion that the basin location was the most appropriate way to approach the drainage. Mr. Misiewicz stated that in September 2010 the applicant submitted a letter from the Sewer Commission regarding the capacity and that there was currently an issue with capacity during high water events and they were looking into it. He asked if this was done now that they are proposing to add four lots. Mr. McEvoy stated that it was not addressed during Inland Wetlands and it would be a matter for the WPCA. Mr. D'Amico stated that they will get a letter from WPC A regarding that.

Mr. Stevens stated that the layout of the lots does not look like good planning and it appears that they are squeezing the four lots in. Mr. D'Amico stated that the regulation is ambiguous and they would be willing to go back to the original design if it would be acceptable. Mr. Stevens stated that it appears to be poor planning all around. Mr. Estwan stated that he has a problem with the construction in the upland review area even though it was approved by Inland Wetlands.

Chm. Estwan asked for public comment on the application.

Fran Finnucan, 45 Belleview Drive, asked about soil testing. Mr. D'Amico stated that they submitted a soil scientist report that contains all the information and the report was given to Inland Wetlands. Mr. Finnucan stated that there are drainage problems that have not been corrected and he was concerned about additional run off from these homes. He stated that the City installed a pipe and water is directed into that area. He did not think this should be allowed if future homes will have water problems. Mr. Estwan stated that if it is a wetlands issue it should have been discussed during the Inland Wetlands review.

Bill Nicoletti, 31 Belleview Drive stated that the proposed detention pond is on another portion of the property that is not part of the subdivision parcel. He asked what would happen if that property gets sold. Mr. D'Amico stated that the ownership of the basin will be in an association and it will be responsible for the maintenance. The subdivision will have an easement over that property. Mr. Nicoletti asked if it will become a city road and Mr. McEvoy stated that if the subdivision is approved it will be a city road.

Bob Miano, 53 Belleview Drive stated that Belleview Drive has 51 homes on it already and he asked what the maximum allowed is. Mr. Estwan stated that he regulation is not to have more than 20 building lots but the Commission can approve more. He also stated that this area was created prior to the zoning regulations. Mr. Miani stated that they are proposing to add another cul-de-sac on a street with only one entrance. He stated that the regulations should be upheld and this property was industrial and it should stay that way. This will also be adding more traffic to the area.

Mr. Estwan stated that he still feels that the best use is residential but he would like to have the deed restriction against any further development.

Bill Gorzelany, 21 Belleview Drive asked how the Commission felt about the design of the lots. Mr. Estwan stated that the Commission does not really like it.

Mr. Estwan stated that he does have issues and has a problem with Inland Wetlands and the fact that they did not have a public hearing. He stated that there have been a lot of comments and concerns about drainage and run off. He stated that these did not get addressed and will these lots perpetrate the problem. He also stated he had an issue with the irregular shape of these lots and it is against good planning and proper zoning. He stated that they look awful the way they are carved out. He stated that it appears that if there were three lots it would solve a lot of the issues. He stated that this area is already over the regulation and has been for a long time. The Commission is trying to do something about this. He stated that the Commission cleaned up the lot lines and is planning on addressing the issues so it does not go any further. He stated that valid points about drainage were brought up and if necessary can go back to Inland Wetlands and get their reasons for approving it. He stated that he does have a problem with the detention basin being in another zone and owned by a different owner. He also did not see any sense in building a house in the wetlands area. He asked the City Engineer to go out and find out what the drainage problems are in that area.

Mr. Stankye stated that he felt it was just going to compound the problem with runoff and the drainage. Mr. Estwan also asked Atty. Coppola to look into the issue of the detention basin being on another piece of property with a different owner. It is owned by someone else and in an industrial zone. Atty. Coppola asked if there was an agreement to go on and off that property. Mr. McEvoy stated that the easement is in favor of the City of Derby.

Mr. Stevens stated that it seems that it will be a problem in the future with the detention basin. Mr. Estwan stated that it is usually on a lot that is on the property. Mr. McEvoy stated that the ownership and maintenance has to be in the name of the association. Mr. Estwan stated that it is usually on the lot that is set aside as the open space. He stated that he has issues with the detention basin, the irregular shaped lots and would like to see the deed restriction. Mr. McEvoy needs to look at the revised plans. He asked for any more public comment.

Dan Waleski, 21 Elm Street stated that he is against approving the application. He stated that many changes have been made but he is still against the approval of the application.

Mr. D'Amico stated that the public hearing should be left open to allow the attorney and engineer to review the plans. He also stated that they will look further into the lot lines.

Mr. Estwan stated that while the Commission did approve the zone change because we thought it was the proper and correct thing to do. He also stated that he felt that a message was sent to the applicant that the second phase would be a subdivision application and that a lot more care would go into presenting this with a lot more detail and a nice clean application.

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

### New Business

(a) Application for CDD Approval from Tracey Gibson for 17 Elizabeth Street for use as a dance studio (Application #2011-08-16-01).

Tracey Gibson was present and stated that she would like to use the property for a liturgical interpretive dance studio. The property is located across from the municipal parking garage so there should be no parking problems. Mr. Estwan read a letter from the Fire Marshal indicating that he had no problem with the application. A motion to approve the application was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously.

(b) Application for CDD Approval from Rev. Nathan Page, Sr. for 18 Olivia Street for use as a full faith outreach ministries. (Application #2011-08-16-02).

Barry Lifrieri, realtor with Carrey & Guerrera Realtors was present and stated that the previous tenant was a dance studio. This tenant would serve 6 to 10 families that would use the space in the evenings on Tuesday, Thursday and Friday and on Sunday throughout the day. There will be no construction done to the interior of the building. There should be no problem with parking either on the street or in the parking garage. Chm. Estwan stated that this is an application for CDD Approval and usually this type of use is allowed in a P Zone. Mr. McEvoy asked if they would be using any of the parking spaces on the lower portion of this property and Mr. Lifrieri stated that they would not. Mr. Stankye asked how many people in total would be in the congregation. Rev. Nathan Page stated that they have approximately 25-30 members and approximately 6-10 attend services on any Sunday. There was some concern with parking and Rev. Page stated that there is a lot of on street parking as well as the close proximity to the parking garage.

A motion to approve the application was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously.

(c) Discussion and possible action – Application for four lot subdivision from Belleview Homes, L.L.C. for 35 Belleview Drive, Lot #14, Map 2-5 (Application #2011-08-16-03).

A motion to table this matter was made by Mr. Rogers, seconded by Mr. Stankye and carried unanimously.

(d) Discussion and possible action – Revised Zoning Application.

Mr. Estwan stated that he met with the Tax Board and as a result of that meeting a new application form has been developed. The form will actually state what the fee is. Any excess fees and costs will be billed to the applicant on a monthly and all fees and costs must be paid before a permit is issued when an application is approved. He stated that every application will

have as a condition of approval that no certificate of occupancy or permit will be issued until the fees are paid. A motion to approve the new application form was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously.

### Old Business

#### (a) Update on Redevelopment Zone.

Atty. Coppola stated that a final proposal from the developer has been presented. The developer will not say who the tenants are but has indicated that 95% of the project has been committed to be leased. He also stated that the financing individuals have been here several times and met with officials and are ready to go. The Route 34 project will not effect this at all. He stated that the State will be dealing with the tenants along Route 34.

### Executive Session

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

A motion to go into Executive Session to discuss pending litigation with enforcement issues and include Atty. Coppola and Mr. McEvoy was made by Mr. Stankye, seconded by Mr. Misiewicz and carried unanimously. The Commission went into Executive Session at 8:45 p.m.

A motion to come out of Executive Session and continue with the regular meeting at 8:55 p.m. was made by Mr. Estwan, seconded by Mr. Stevens and carried unanimously.

### 11. Payment of Bills

Mr. Stankye moved that the following bills from Milone and MacBroom be paid – Invoice #57231 dated 9/13/2011 - \$414.42; Invoice #57232, dated 9/13/2011 - \$1,300.00; Invoice #57233 dated 9/13/2011 - \$640.00. The motion was seconded by Mr. Stevens and carried unanimously.

A motion to adjourn was made by Mr. Stevens, seconded by Mr. Stankye and carried unanimously. The meeting was adjourned at 9:00 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  
David Barboza II  
Albert Misiewicz  
Glenn H. Stevens  
Raul Sanchez (Alternate)  
Maryanne DeTullio, Clerk

The regular meeting of the Aquifer Protection Agency was held on Tuesday, September 20, 2011, in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 9:00 p.m. by Chairman Ted Estwan. Present were Ted Estwan, Albert Misiewicz, Richard Stankye, Glenn Stevens and David Rogers. Also present were Attorney Joseph Coppola, Corporation Counsel, 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

There was no one from the public wishing to speak.

Approval of Minutes

A motion to approve the minutes of the 08/16/11 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. Stevens, seconded by Mr. Stankye and carried unanimously. The meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Maryanne DeTullio, Clerk

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