

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, November 20, 2012 at 7:00 p.m. in the Aldermanic Chambers, 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, Richard Stankye, Albert Misiewicz, 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

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 October 16, 2012 meeting was made by Mr. Rogers, seconded by Mr. Sanchez and carried 4-2 with Mr. Misiewicz and Mr. Stankye abstaining.

Acceptance of Applications

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

Public Hearing:

(a) Application from Buckingham Estates, LLC for 2 lot re-subdivision at 8 Buckingham Road – R-1 Zone - Application #2012-07-17-01 – Continued from October 16, 2012

Attorney Dominick Thomas, 315 Main Street, Derby was present for the applicant. He presented the letter granting the extension to 11/21/12 for the public hearing. Atty. Thomas stated that they made the full presentation at last month's meeting on the issue of the lot width. He presented the analysis of the lot width regulations and also lot measurements that were taken. This shows that the average of all the different interpretations created a lot width that is

sufficient. He stated that this property is split by the town lines of Seymour and Derby. He stated that the Commission is only dealing with the portion that is in Derby and that it complies with the Derby regulations.

Jim Swift, engineer stated that the Mllone and MacBroom review letter had an issue with the sight lines. He stated that they were field measured and the exact sight lines are 215' and 212' from Lot 3 and 3A looking up and down the hill. He also submitted revised plans with more information on them but no changes to the plans.

Mr. McEvoy asked if any correspondence was received and submitted from Valley Health Department regarding the septic systems. Mr. Swift stated that the plans were submitted to them and a letter should have been sent. He stated that field testing was done showing that the systems would conform to Valley Health code requirements. Mr. McEvoy stated that some things relating to storm drainage need to be confirmed. He stated that they presented different analyses of the lot width calculations and it is their opinion and given the shape and nature of the proposed parcel for Lot 3, the requirements of Figure 31 specifically give direction for lots that are on a radius. Chm. Estwan stated that last month drawings were submitted measuring the lot width and he asked if there was one specifically based on Figure 31 which gives the direction of the measurement of the lot width. Atty. Thomas stated that there was not because Figure 31 does not comply with the language, so you have a figure which does not comply with the language of the regulations to determine how it is done. He stated that if you were to do it, you would have to take the high point and draw a line to the low point, not to the middle of the lot. The figure has it going from the high point to the low point and once that is done, then the regulation states that you go inside, not at the minimum point. He stated that if you look at Figure 31 and then try and apply it to a lot that is not in perfectly shaped. Mr. McEvoy stated that the regulation takes into account the direction of the side lot lines and the mean angle of those side lot lines and the measurement of lot depth or lot width is measured perpendicular to that mean average line. He stated that one of the measurements on the diagram that they prepared has lot width being measured in front of the front setback which he did not think is the intent of the regulation. Chm. Estwan asked how many feet it was off in any of those measurements to comply or not comply. Atty. Thomas stated in the original application the lowest number was 168 done in accordance with Figure 31.

Chm. Estwan stated that he received two letters from VCOG which stated that no negative regional impacts have been identified. It further stated that the Derby Planning and Zoning Commission should be reminded that they are not authorized to approve a subdivision or re-subdivision that does not comply with the zoning regulations of the municipality where located. Chm. Estwan stated that this is in two different towns and it needs variances for the lot in Seymour. Atty. Coppola stated that the Commission has jurisdiction only on the property located in Derby. The Commission cannot deny because he cannot comply with the Seymour regulations.

Mr. Swift stated that as far as storm drainage calculations, no field testing was done. He stated that there is a lot of area there and he could see the engineer's point and testing needs to be done.

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

Jim Robinson, 250 Hawthorne Avenue asked when they surveyed the town line did they physically come up on the monuments or did they use a GPS. Atty. Thomas stated that the survey was done by a registered surveyor and he did not know how it was done. Mr. Robinson stated that there is a little problem between the Ansonia, Derby and Seymour town lines which is a little off. He stated that there are physical monuments there. Atty. Thomas stated that they submitted an A-2 survey done by a registered surveyor and they have to rely on that. Mr. Robinson stated that there have been surveying mistakes in the past and he asked how it was measured. Atty. Coppola stated that what they are concerned with is the dimension of the lot. Chm. Estwan stated that the Commission has an A-2 survey which they are relying on.

Karen Kemmesies, 25 John Street stated that at the time of the original subdivision the property was dug out and caused problems on adjacent properties. She stated that she hopes that this does not cause any further problems for the City of Derby.

Atty. Coppola stated that in order to keep the public hearing open for the storm water calculations an extension is needed. Atty. Thomas stated that they would agree to the extension if the public hearing is kept open and on the agenda just to get those calculations. He stated that he will submit the letter granting the extension.

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

(b) 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, continued from October 16, 2012.

Attorney Dominick Thomas, 315 Main Street, Derby was present for the applicant. He submitted a letter from the Fire Marshal dated 10/30/12. He stated that on the issue of parking he stated that the Parking Authority was notified and he spoke with a member of the Parking Authority. They have 325 parking spaces and there is plenty of parking available. He stated that businesses can reserve spaces. He stated that there was a question on the sizes of the units and he submitted a letter from the engineer listing the size of each of the proposed units.

Atty. Thomas stated that regarding the parking for residential uses the spaces comply with the regulations. He submitted the parking regulations and stated that under the design they are geared toward a public parking lot that is an outside lot. He stated that one of the spaces that had to be moved up is 162 s.f. and it states compact cars and it states that because this is a private parking lot only for the residents and it can be designated. He stated that he did not believe that the section of design complies to the indoor spaces, the total spaces between the aisle and spaces is 57 feet which would normally be 60 feet. He stated that that area is 21 feet, more than enough room in this situation to back out. He stated that this is an interior space and you can count all 20 spaces and there is enough for the 14 units.

He stated that they feel that they comply with the parking and it is a permitted use. He also stated that they have addressed all the issues and the Fire Marshal has no issue with the application.

Mr. McEvoy stated that Space 9 does not conform as proposed in their plans. The aisle width space #9 and #20 does not conform to the minimum aisle width and even if the Commission found that space applicable they still do not have the required 21 space for a 14 unit development. He stated that with the 20 spaces shown they can support 13 units. He stated that they just submitted this plan tonight with the revisions to the spaces. He stated that the aisle width does not comply and the area to back out is most critical for the last two spaces.

Mr. Szewczyk stated that it was noted that the commercial tenants can use the parking garage. Atty. Thomas stated that they are within 300 feet of the parking garage and do not have to provide on-site parking for them and they can use the garage. Mr. Szewczyk stated that the parking garage was built in 1975 with a 25 year life span. He stated that it is currently useable but there is a chance that unless it is maintained it could be closed and if that was the case what would happen. Atty. Thomas stated it is in the regulations that it could be counted and it is being done.

Chm. Estwan asked for any public comment.

Jim Robinson, 250 Hawthorne Avenue Derby asked how many handicap spaces are being provided. Atty. Thomas stated that there is one space and that meets the standards. Mr. Robinson stated that there should be at least four handicap spaces. Mr. McEvoy stated that the number of spaces is determined by the Building Code. He stated that if they had to add more they would have to come back to the Commission. Mr. McEvoy stated that with a building with under 30 units, only one is needed. Mr. Robinson asked how many levels the building will be. Atty. Thomas stated that the Minerva Street side will be three stories with a storage area for mechanicals and the Elizabeth Street side will have retail on the first level and apartments on the second level. Mr. Robinson asked if there was an elevator and Attorney Thomas stated that there is not. Mr. Robinson asked if the electrical infrastructure has been updated. Chm. Estwan stated that has nothing to do with Planning and Zoning and that is a Building Code issue. Mr. Robinson asked if this will have a burden on the education system and Chm. Estwan stated that it will not. Mr. Robinson asked if the Sewer Authority has looked at this and given approval. Chm. Estwan stated that they have not.

Attorney Margery Shansky, Grand Avenue, New Haven stated that she represents a neighboring property owner. She stated that Atty. Thomas discussed residential development and with site plan approval it is the burden of the applicant to demonstrate compliance with existing regulations. She stated with the parking dimensions they have to apply the regulations and cannot ignore the dimensions. She stated that the spaces need to be adequately sized and it appears to be too many units and the Commission does not have the latitude to ignore the regulations. She also stated that regarding the commercial parking it is the obligation of the applicant to present a letter from the Parking Authority that the spaces are available and committed to this property. She also asked about where the garbage will be collected.

Gino DiGiovanni, 77 Eighth Street stated that the garbage collection and where it will be kept is an issue with the number of units proposed. He stated that the area is the garage is not flat and there is a fairly steep grade. He also asked about ventilation in the garage and there should be more information about that in the plans.

Dr. Bruce Soferman, 61 Elizabeth Street stated that there is an issue with parking and if the parking garage ever closes where will the businesses park. Chm. Estwan stated that it is in the regulations that we have a municipal parking garage and we have it now and that is what we have to go with.

Anita Dugatto, 69 Elizabeth Street stated that she felt that commercial is the best use for the building and there are opportunities for commercial use. She stated that she spoke with the Economic Development Director and asked that she be present at this meeting to comment on the application but she is not here this evening. She stated that she does not feel that there is enough parking. She also stated that there is a public safety issue and the use is being changed and it should be improved instead of being made worse. She stated that it is difficult to exit the garage and they are short on the number of spaces being provided. She also stated that there is a problem with the garbage now being kept in the basement and it needs to be addressed.

Mr. Stankye stated that the issue of the garbage needs to be addressed. Atty. Thomas stated that there is a basement area below the apartments on Minerva Street where the garbage could be kept. He stated that it could be done by private pick-up and they could comply. Mr. Stankye asked about the parking area and Atty. Thomas stated that it will be leveled off and appropriate railings provided. He also stated that they are required to have it sprinklered and vented.

Chm. Estwan read the letter from the Fire Marshal dated 10/30/12 into the record. He stated that the Fire Marshal deals with Fire Department accessibility and any building or fire code issues go through the permit process. The Fire Marshal stated that there is no problem with fire department accessibility with this problem.

Atty. Thomas stated that with respect to the parking garage the regulations stated that off street parking requirements shall be waived for all but residential uses within 300 feet of the municipal parking facility. He stated that they believe that they have 20 spaces complying and they can be designed for the 14 units. He stated that this is a permitted use and there is a need for certain type of residential development. He stated that they feel it is an appropriate use for residential on Elizabeth Street and residential on the second floor on Minerva Street.

Gino DiGiovanni, 77 Eighth Street stated that there is no way that the inside of the garage can be leveled and the apartments extended. He was also concerned about the garbage and where it will be kept.

Jim Robinson, 250 Hawthorne Avenue asked how a handicap person will get to the second floor. Atty. Thomas stated that it will be a Type B handicap unit and will have full access to the units on the first floor and they comply with the handicap regulations.

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

Old Business

(a) Application from AIA Home Buyers, LLC – Pasquale 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 #2012-09-18-01.

Pat Civitella was present and stated that revised plans were submitted addressing all concerns from the city engineer. He stated that they have moved the storage area from the front side to the Park Avenue side. Mr. McEvoy stated that the plans have been revised to show a parking phase line. He asked if the other areas that are proposed to be paved will be done at this time. Mr. Civitella stated that it depends on when they are going to do it. He stated that the proposal is for Phase 1. Mr. McEvoy stated that their proposal for the storm water management provides for a riprap swale and he did not feel that they needed something that involved. He stated that a section of stone exposed to grade may be more appropriate. He stated that his only other concern was that the building inspector and WPCA expressed regarding discharge into the sanitary sewer system. He stated that these should be corrected prior to paving so there are not any issues.

Chm. Estwan stated that he appreciated the applicant coming forward with a pre-application meeting and a phasing approach. He also stated that the Commission appreciates the efforts made in working with the Commission.

Mr. Estwan moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Site Plan Review for AIA Home Buyers, Inc. on property shown on Derby Assessors Map 10-3, Lot 154 subject to the following:

The approval shall be based upon the following documents submitted in support of this application:

1. Statement of Use;
2. Plan entitled "Site Plan, Prepared for, AIA Home Buyers, LLC, 253 Roosevelt Drive, Derby, Connecticut", dated August 9, 2012, revised to November 20, 2012, at a scale of 1"=20', and prepared by Nowakowski-O'Bymachow-Kane, Associates.
3. Plan entitled "Map of Property, Prepared for, AIA Home Buyers, LLC, 253 Roosevelt Drive, Derby, Connecticut", dated August 9, 2012, at a scale of 1"=20', and prepared by Nowakowski-O'Bymachow-Kane, Associates.
4. Letter from Milone and MacBroom, Inc. dated October 11, 2012.
5. Letter from NOK Associates dated November 9, 2012.

With the following stipulated conditions:

1. The plans shall be modified to include the following:
 - a. Notation that the sales office is to be located in the area of the building labeled as 3,203 +/- SF
 - b. The discharge location(s) of the existing on-site drainage. Please note that the yard drains are not permitted to enter the sanitary sewer system.
 - c. The sump/swale detail shall be revised to show grass or landscaping on the side slopes with stone to the surface in the center 18" of the swale
 - d. The limits of paving associated with this phase of site improvements
2. All handicapped parking shall be provided in accordance with the Connecticut State Building Code.
3. A performance bond in an amount and form acceptable to the City Engineer and Corporation Counsel shall be posed prior to any construction activities associated with the site. The amount of the bond shall cover the following improvements:
 - a. Fencing for the outdoor storage area
 - b. Buffer landscaping
4. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.
5. Any site or building signage shall be detailed and submitted to the Zoning Enforcement Officer for review and approval in accordance with the Zoning Regulations. Please note that Section 195-69.B.(6) requires all sides of a freestanding sign that are utilized as a sign or part of a sign shall be included in the computation of the total sign area.
6. All exterior lighting shall be in conformance with the applicable sections of the Derby Zoning Regulations.
7. The Building Official shall not issue any building or zoning permits on the lots until the City Finance Director has verified that all fees have been paid in accordance with the City of Derby Ordinance Section 85-3.

The motion was seconded by Stankye and carried unanimously.

(b) Application from Brookside Development LLC for 8 lot subdivision with flag lots at 401 David Humphreys Road – Application #2012-07-17-01.

Mr. Sanchez recused himself from this item.

Mr. Estwan moved that pursuant to Section 195-48, the Derby Planning & Zoning Commission finds the following:

1. The application and supporting documentation as presented is in accordance with Sections 195-48 (subsections A through E).
2. The application proposes to create an eight lot subdivision with three flag lots. Flag Lot #1 includes the existing house which is proposed to remain. The lots as proposed conform to the dimensional requirements of the Derby Zoning Regulations.
3. The applicant has demonstrated that the land characteristics and physical site conditions make flag lot development practical, reasonable and desirable.
4. All lots are to take access from a common driveway, partially located within the access strips to Flag Lots#2 and 3. In accordance with Section 195-62.E.(1), the Commission find that the use of the access strip for more than one lot is in the public interest to reduce the number of curb cuts on David Humphreys Road and Sodom Lane.
5. The applicant's engineer has produced documentation demonstrating that there will be no increases in runoff and is therefore in compliance with the Derby Zoning Regulations.
6. The site plan improvements contain a detailed sediment and erosion control plan that is in compliance with the Derby Zoning Regulations.
7. Flag Lot #3 will include a permanent and continuous landscaped buffer in accordance with Section 195-62.C.(8)(a). The applicant has requested a waiver of the landscaping requirements for Flag Lots #1 and #2 to enhance solar access in accordance with Section 195-62.C.(8)(c).
8. The Conservation Easement depicted on Flag Lot #3 satisfies the requirement in Section 3.11 of the Subdivision Regulations for parks, playgrounds, recreation areas and open spaces.
9. A sightline easement is required across 333 and 345 David Humphreys Road in order to provide for adequate sight distances from the common driveway.

Following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Special Exception and Subdivision Application for Singer Village on property shown on Derby Assessors Map 4-3, Lot 40 subject to the following conditions:

The approval shall be based upon the following documents submitted in support of this application:

1. Application for Approval of Subdivision/Resubdivision.
2. Mission Statement
3. "Drainage report, Prepared for: Singer Village, 401 Sodom Lane, Derby, Connecticut" prepared by Nowakowski-O'Bymachow-Kane Associates, dated May 9, 2012, revised to July 24, 2012 with the following attached drawings:

- a. "Overall Site Development Plan", drawn at a scale of 1"=40'.
 - b. "Subdivision Map", drawn at a scale of 1"=40'.
 - c. "Soil and Erosion Control Plan – Lot 1 (Sheet 1 of 3)", drawn at a scale of 1"=20'.
 - d. "Soil and Erosion Control Plan – Lots 2, 3, 4, 5 (Sheet 2 of 3)", drawn at a scale of 1"=20'.
 - e. "Soil and Erosion Control Plan – Lots 6, 7, 8 (Sheet 3 of 3)", drawn at a scale of 1"=20'.
 - f. "Driveway and Utility Profile", drawn at a scale of 1"=40'.
 - g. "Sight Line Map – David Humphreys Road", drawn at a scale of 1"=40'.
 - h. "Test Pit Data", not to scale.
 - i. "Detail Sheet (Sheet 1 of 2)", not to scale.
 - j. "Detail Sheet (Sheet 2 of 2)", not to scale.
5. Plan entitled "Landscape Plan, Singer Village", dated June 11, 2012, revised to August 1, 2012, at a scale of 1"=30', prepared by Robert Sherwood, Landscape Architect, LLC>
6. Plan entitled "Landscape Plan Details, Singer Village", dated June 11, 2012, not to scale, prepared by Robert Sherwood, Landscape Architect, LLC.
7. Letter from Derby Fire Marshal to Planning and Zoning Commission dated July 23, 2012.
8. Alternate Layout depicting nine lots with individual driveways to Sodom Lane and David Humphreys Road.
9. Alternate Layout depicting eight lots with a cul-de-sac.
10. Letter from Milone and MacBroom, Inc. dated August 17, 2012, updated on September 18, 2012.
11. Sample document for the individual lot owner requirements of maintenance of rain gardens, landscaping, and detention basins.
12. Agreement for a sight line easement between the applicant and the abutting property owner of 333 and 345 David Humphreys Road.

With the following stipulated conditions:

1. The Site Development Plans and Subdivision Map shall be reviewed for compliance by the Zoning Enforcement Officer, the City Engineer, and Corporation Counsel prior to filing on the Derby Land Records. The plans shall be revised to conform to the following:
 - a. Comments 7, 10(a,b), 14-18 and 21-23 in the letter prepared by Milone and MacBroom dated August 17, 2012 and updated on September 18, 2012.
 - b. Notes on the Subdivision Map for Flag Lots in accordance with Section 195-62.B.4.

2. Roof leaders for all houses shall connect into individual rain gardens and/or detention basins on each lot.
3. The landscaping buffer requirement for Flag Lots #1 and 2 are waived to enhance solar access in accordance with Section 195-62.C(8)(c).
4. The Derby DPW requires that all utility trenches be repaired in accordance with City requirements with a curb-to-curb mill and overlay of existing roadways.
5. Prior to endorsement by the Chairman and conveyance of any lots from the Owner, the following items shall be completed:
 - a. A bond in an amount and form acceptable to Corporation Counsel and the City Engineer shall be posed for the construction of the common driveway, including but not limited to the road subbase, pavement, and the work associated with the installation of utilities, along with an as-built of the same.
 - b. Ownership and maintenance of the detention basins and common driveways shall be the responsibility of a homeowner's association. Per section 2.5.6 of the Derby Subdivision Regulations, prepare the proper documentation for review and approval By the City Engineer and Corporation Counsel. Also, prior to conveying out any lots, the applicant shall create a successor entity composed of all the owners of lots in the Singer Village. This entity shall be responsible to the City of Derby under the terms of the Agreement as the successor to the applicant.
 - c. Provide the Zoning Enforcement Officer, the City Engineer, and /or Corporation Counsel draft copies of all approved easements for review, including the sight line easement with the abutting property, along with draft copy of the restrictive covenant required in Section 195-62.C.(8)(a) of the Zoning Regulations for the buffer strip on Flag Lot #3.
 - d. The filing of the special exception filing form, and the subdivision map and all approved easements, agreements, deed restrictions, etc. shall be filed on the Derby Land Records in accordance with the General Statutes of the State of Connecticut.
6. Any significant changes or modifications to the plans presented will require subsequent review and approval by the Planning & Zoning Commission.
7. The Zoning Enforcement Officer and City Engineer shall have the authority to direct the applicant, to install additional sediment and erosion control measures as conditions may warrant.
8. The Building Official shall not issue any building permits on the proposed lots until the City Finance Director has verified that all fees have been paid in accordance with City of Derby Ordinance Section 85-3.

The motion was seconded by Misiewicz and carried unanimously.

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

Chm. Estwan stated that the original application was denied and is now under appeal.

Mr. Estwan moved that pursuant to Section 195-48 of the City of Derby Zoning Regulations and CGS Section 8-3, the Derby Planning & Zoning Commission finds the following:

1. The application and supporting documentation as presented is in accordance with Sections 195-48 (subsections A through E) of the Derby Zoning Regulations.
2. The application proposes to create a five lot subdivision with one flag lot.
3. Lots #1-4 as proposed conform to the dimensional requirements of the Derby Zoning Regulations; however, the applicant has not demonstrated to the satisfaction of the Commission that the land characteristics and physical site conditions make Flag Lot #5 development practical, reasonable and desirable. Therefore, the Commission finds that Flag Lot #5 is not in conformance with the Derby Zoning Regulations.
4. The applicant's engineer has produced documentation demonstrating that there will be no increases in runoff and is therefore in compliance with the Derby Zoning Regulations.
5. The site plan improvements contain a detailed sediment and erosion control plan that is in compliance with the Derby Zoning Regulations.
6. The applicant has requested a waiver of the Section 3.11 of the Subdivision Regulations for parks, recreation areas and open spaces due to the area of the parcel that is protected wetland areas.

Following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Subdivision Application with modifications on property shown on Derby Assessors Map 3-2, Lot 13, subject to the following documents:

The *approval with modifications* shall be based upon the following documents submitted in support of this application:

1. Application for Approval of Subdivision.
2. Request for Waiver of Section 3.11 of the Derby Subdivision Regulations.
3. "Site Engineering & Drainage Report", prepared for BAMF Homes, Inc., prepared by Rotundo Engineering, LLC, dated September 1, 2011, revised to August 15, 2012.
4. Plan entitled "Record Subdivision Map, 16 John Street, Prepared for BAMF Homes Limited, Derby, Connecticut" dated July 2, 2012, revised to September 20, 2012, at a scale of 1"=30', prepared by Codespoti & Associates, P.C.

5. Plans entitled "5-Lot Residential Subdivision, 16 John Street, Derby, Connecticut" with the following attached drawings:

- a. "Sheet SP-1, Site Development Plan," prepared by Rotundo Engineering, LLC, dated August 15, 2011, revised to August 15, 2012, and drawn at a scale of 1"=30'.
- b. "Sheet SP-2, Erosion and Sedimentation Control Plan," prepared by Rotundo Engineering, LLC dated August 15, 2011 revised to August 15, 2012, and drawn at a scale of 1"=30'.
- c. "Sheet SP-3, Erosion and Sedimentation Control Details and Notes," prepared by Rotundo Engineering, LLC, dated September 1, 2011, revised to August 15, 2012, and drawn at varying scales.
- d. "Sheet SP-4, Details," prepared by Rotundo Engineering, LLC dated September 1, 2011, revised to August 15, 2012 and drawn at varying scales.

With the following stipulated conditions:

1. The Site Development Plans and Subdivision Map shall be reviewed for compliance by the Zoning Enforcement Officer, the City Engineer, and Corporation Counsel prior to filing on the Debby Land Records. The plans shall be revised to conform to the following:

- a. Flag Lot #5 shall be eliminated and the area of Flag Lot #5 shall be incorporated into one or more of the abutting frontage lots.
- b. The trench drains at the end of each driveway shall be piped to the existing catch basin at northwest corner of the intersection of John Street and Sodom Lane. The storm drain pipe conveying the trench drain may be located within the City of Derby Right-of-Way, and shall be designed to accommodate at a minimum a 10-year storm event from the contributing driveways. The maintenance of the storm drain pipe shall Be the responsibility of the individual lot owners.

2. Prior to endorsement by the Chairman and conveyance of any lots from the Owner, the following items shall be completed.

- a. Provide the Zoning Enforcement Officer, the City Engineer, and/or Corporation Counsel draft copies of all approved easements for review.
- b. The deeds for the individual lots shall include language that the infiltration galleries shall be accessible at all times for City inspection in accordance with Section 195-35.D.(7) of the Derby Zoning Regulations.
- c. The filing of the subdivision map and all approved easements, agreements, deed restrictions, etc. shall be filed on the Derby Land Records in accordance with the General Statutes of the State of Connecticut..

3. Any significant changes or modifications to the plans presented will require subsequent review and approval by the Planning & Zoning Commission.
4. A weaver of Section 3.11 of the Subdivision Regulations is hereby granted.
5. The Derby DPW requires that all utility trenches be repaired in accordance with City requirements with a curb-to-curb mill and overlay of existing roadways.
6. The Zoning Enforcement Officer and City Engineer shall have the authority to direct the applicant, to install additional sediment and erosion control measures as conditions may warrant.
7. The Building Official shall not issue any building permits on the proposed lots until the City Finance Director has verified that all fees have been paid in accordance with City of Derby Ordinance Section 85-3.

The motion was seconded by Rogers. Mr. Stankye felt that he would like to see some type of bond in place so that if there are any problems from runoff in the future the City will not be liable for the repairs. Atty. Coppola stated that a bond will be in place for the completion of the work and also that the system is functioning properly. He stated that maintenance bonds are no longer allowed to be placed on a project. The motion was carried unanimously.

(d) 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.

Chm. Estwan stated that the public hearing is still open on this application and this item will be tabled.

(e) 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 moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the CDD Use Review and Site Plan Modification for on a portion of property shown on Derby Assessors Map 8-5, Lot 76.

The approval shall be based upon the following documents submitted in support of this application:

1. “Application for Special Exception Use and/or Site Plan Approval”, dated September 11, 2012.
2. “Statement of Use”.
3. List of Property Owners for Site Plan Application Notice.

4. Plans entitled "Renovations to 58 Minerva St. and Elizabeth Street, Derby, Connecticut" dated September 12, 2012, prepared by Russell James Larrabee Architect, with the following plans attached:

- a. "Minerva St. Basement Floor Plan," at a scale of $\frac{1}{4}''=1'$
- b. "Minerva St. 1st Floor Plan," at a scale of $\frac{1}{4}''=1'$
- c. "Minerva St. 2nd Floor Plan," at a scale of $\frac{1}{4}''=1'$
- d. "Minerva St. 3rd Floor Plan," at a scale of $\frac{1}{4}''=1'$
- e. "Elizabeth St. 2nd Floor Plan," at a scale of $\frac{1}{4}''=1'$
- f. "Exterior Elev. Minerva Street" at a scale of $\frac{1}{4}''=1'$
- g. "Left and Right Exterior Elev." At a scale of $\frac{1}{4}''=1'$
- h. "Parking Plan," at a scale of $\frac{1}{8}''=1'$
- i. "Overall Floor Plan," at a scale of $\frac{1}{16}''=1'$

5. Letter from Milone and MacBroom dated October 10, 2012.

6. Letter from Derby Fire Marshal dated October 30, 2012.

With the following stipulated conditions:

1. Based upon the plans presented in support of this application, the interior parking area can only support 19 parking spaces that are compliant with the dimensional criteria of applicable sections of the Derby Zoning Regulations. The space identified as space #20 on the reference plans does not meet the minimum size requirements in Section 195-53.B for a parking space and the aisle width between space #20 and space #9 does not meet the minimum requirements in Section 195-59.G.(1). Space #9 represents a safety concern to the future occupants of this building. Therefore, the architectural plans shall be revised to reduce the number of residential apartment units from 14 to no more than 12 so that the residential requirements of 1.5 spaces per unit in accordance with Section 195-20.H.
2. All handicapped parking shall be provided in accordance with the CT State Building Code.

The motion was seconded by Mr. Misiewicz and carried unanimously.

(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.

(f) Update on Redevelopment Zone.

Atty. Coppola stated he had no report at this time.

New Business:

(a) Informal discussion – South Central Connecticut Regional Water Authority- Proposed Water Tank, West Derby.

Steve Rupar and Brian Robillard were present. The proposed water storage tank will be located at the end of Mountain Street. The Water Company has an option to purchase property pending approval by the Planning and Zoning Commission. The access will be from the end of Summit Street by way of a gravel driveway that would be essentially follow a dirt road that runs up through the property for a portion of it and then up to the tank site. It would be approximately 1200 feet. This will be a 2,000,000 water storage tank and in order to connect this to the distribution there will be a water main that is going to extend down cross country over to Fall Street then to Emmett Avenue to Eleventh Street to an existing water main on Hawkins Street. Chm. Estwan asked what was located in the P Zone on the other side. Mr. Robillard stated that it is the City of Derby garage and dog pound and St. Peter & St. Paul Cemetery is on the other end. The access road is owned by Summit Hill LLC and the Water Company will have an easement for the road. Chm. Estwan asked if they considered using the cemetery for easier access. M. Rupar stated that they have been in discussion with the cemetery and it is a possibility but are going to present the application this way.

Mr. McEvoy asked about any rock crushing work and Mr. Robillard stated that a large amount of rock would need to be removed in order to bring the site down to the proper elevation to construct the tank. He stated that it would be approximately 13,000 yards and they are hoping to process the material to use on site. They are hoping to begin work in the spring of 2013 and it would be complete in fall of 2015. The site work would hopefully be completed by the fall of 2013. Mr. McEvoy stated that they will need to show where the crushers will be located on the property.

Executive Session

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

A motion to go into Executive Session to discuss pending litigation and have Atty. Coppola and Mr. McEvoy attend was made by Mr. Estwan, seconded by Mr. Szewczyk and carried unanimously. The Commission went into Executive Session at 9:50 p.m. A motion to come out of Executive Session and resume the regular meeting at 10:04 p.m. was made by Mr. Estwan, seconded by Mr. Stankye and carried unanimously.

Payment of Bills

Mr. Rogers moved that the following bills from Milone and MacBroom be paid. – Invoice #61783, #61426 #61784, #61785, #61786, #61787 and #61788 be paid. The motion was seconded by Mr. Stankye and carried unanimously.

A motion to adjourn was made by Mr. Rogers, seconded by Mr. Stankye 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.