

**CITY OF DERBY
REDEVELOPMENT AGENCY MEETING
JUNE 12, 2007
DERBY CITY HALL – ALDERMANIC CHAMBERS – 6:30 P.M.**

Chair Rick Dunne called the meeting to order at 6:35 p.m. All rose and pledged allegiance to the flag.

Roll Call: Greg Russo, John Orazietti, and Rick Dunne.
Absent: Michael Kelleher and Glenn Stevens.
Also present: Attorney Joseph Coppola Corporation Counsel, Aldermanic President Ken Hughes, Alderman Joseph Bomba and Director of Economic Development; Sheila O'Malley. Alan Bietsch and David Small and Robert Skolnick of Stoneridge Partners.

Approval of minutes: Mr. Russo mentioned the minutes do not reflect the date of the minutes to be approved. It should read minutes of February 13, 2007, otherwise *Motion to accept the minutes as amended by Mr. Russo with a second by Mr. Orazietti, all in favor, motion passes.*

Additions, deletions, corrections and adoption of agenda – Mr. Dunne asked that #8 Executive Session “b” Calco be marked out as the team could not be here tonight. Also under “a” GAP Analysis update, Mr. Corso is not able to be here tonight, Mr. Dunne will give a brief update following the public portion. Mr. Dunne will add an item prior to #7 as GAP Analysis. *Mr. Orazietti motioned to adopt the agenda as amended with a second by Mr. Russo, all in favor, motion passes.*

Public Portion – Mr. Dan Waleski, 21 Elm Street: We seem to be involved in a second phase. I have seen three drawings with changes of design. We should have a written report with updates, costs and projections. Are copies of the new renderings available and what written material is on hand? The updates on your agenda have not told too much aside from demolition of properties. How about costs in other areas? The minutes tell us the developers are meeting with City officials between Agency meetings. Who are the City members? This Agency should be the authority. The public is in the dark regarding all project objectives, costs and time tables. These proceedings are unorthodox. Mr. Dunne stated our new Director of Development will be giving reports.

Ms. Arlene Yacobacci, 10 Lombardi Drive: She has questions and concerns. What is the status of the Porch & Patio building that is now owned by the developers? Is it scheduled for demolition? If so, when? Is there an update on the blight situation now that the building is visible from Main Street? What is the issue with the Route 34 retaining wall? Who is responsible for putting in a retaining wall? Is the City liable for shoring up Route 34? When will we be able to use our right of way access from First Street from Bridge Street now that the City has demolished those buildings? When will the details be available on the GAP Analysis? Since the GAP Analysis is assuming costs on what is

being proposed, when the City presents to the public the projected yearly costs outlays including paying off principal and interest on any bonding issues versus the expected revenue generated within the redevelopment zone. Will the public be allowed to comment or ask any questions prior to adjournment?

Mr. Dunne said we will try and address as many of those items during the developer's portion. Some of those items are already on the agenda specifically. We will attempt to have a public discussion at the end of every meeting.

GAP Analysis Mr. Dunne received an e-mail from Mr. Corso yesterday. Due to a scheduling conflict he is unable to attend the meeting. With regard to the GAP Analysis; and the direction of the City, they have assembled their team, comprised of AMS Consulting. They are going to be handling project management and assessment review. The evaluation group will review economics, assumptions, real estate evaluation and the value of development rights. Morganti Construction will do the review of the construction costs estimates for the team. Mr. Corso goes on to state the intent of the GAP Analysis is to review the developer's data, assumptions and projections for the proposed project prepared for Derby's downtown and to determine the size of the potential gap between reasonable return on the redevelopment investment and overall costs of the project. Mr. Dunne stated we will take the developer's gap estimate, analyze it and determine whether we agree with that number. Then from there in the PDA agreement we will move on up to nine months to fill that number. In addition, Mr. Corso's e-mail states cost review will evaluate what site development costs are traditionally public in nature and those that are generally assigned to private development costs. This is important as the developer is asking that all site development costs inclusive of the garage be publicly subsidized for the extraordinary challenges of redeveloping the site. The economic evaluation analysis will primarily focus on the economics of the project in terms of income and profit potential, but will also evaluate the developer's assumption on the market value of development rights of the redevelopment parcel. Certain assumptions have been made on probable assessment of property once built which impacts tax revenue for the tax district financing and ultimately impacts the gap. Mr. Dunne stated once the analysis is complete they will share draft information. Mr. Dunne stated he has asked Mr. Corso to appear at each one of our meetings going forward to update us. This will remain out of the public domain until such time as we've concluded our analysis of the gap. When that information is no longer determined to be prejudicial to the rights of the developer or to the City in terms of future acquisition of parcels or the evaluation of land that may be subject to negotiation in the future, when all of those possibilities or conflicts have elapsed then the information will become public information. Mr. Oraziotti asked why the garage is inclusive of the site development costs. Mr. Dunne stated the garage has been included in the public infrastructure that has been submitted by the developer to the Town. Mr. Corso is saying that he is going to evaluate what costs are public in nature versus those that are generally assigned as private development site costs. Mr. Oraziotti asked if we aren't sure whether that will be the City's responsibility? Mr. Dunne stated we are going to have to judge that based upon our independent consultant's recommendation. That will be an open item until we get a report. Everything involved in the construction of that project was

calculated as costs in determining the gap. Mr. Corso may come back and say maybe certain items shouldn't be included in the gap calculation. Mr. Oraziotti stated the numbers could change. Mr. Dunne stated our opinion might be different than what the developer has said the gap is.

Developer's Update – Mr. Skolnick stated the redevelopment project from the public point of view has come to a lull in activity. We believe there has been considerable progress being made. With the Main Street demolition completed, there will be little physical site activity in the near future. The balance of the demolition will come in a second phase, once all of the properties have been acquired. We are working on issues relative to traffic concerns, both within the plan development and along the Main Street – Route 34 as well as Route 8. We are working with the local COG. We have also completed our gap study and have provided the City with the results. In addition, we have met with Mr. Corso, the City's consultant and provided him with all of his requested back up information. We've been working with various members of the City's administration in pursuing gap funding sources at both the state and federal level. We believe we have met all of our obligations under the PDA and the redevelopment is following all of the ordinary and expected course of events contemplated under the PDA. Mr. Skolnick added they have removed the building which was creating a safety hazard. Mr. Oraziotti pointed out that the City was ordered by the State to take them down. Mr. Dunne stated the demolition project has been conducted for the City owned buildings. The City was required by the state building officials to take down the buildings as a matter of public safety. The developer's team offered to manage the project so the City would not have to hire someone to be a project manager. Mr. Bietsch has managed the demolition portion. Mr. Skolnick said we assisted the City in fulfilling the needs in the demolition project as well as saving the City some money.

Demolition Project Status and Route 34 Retaining Wall Issue –Alan Bietsch, Stoneridge Partners, project manager. The buildings have all been removed. The asbestos abatement has been completed. The final paperwork has been filled out and sent to the state. We've had several meetings with the state. The basis for the meeting was for them to accept the slope. That we are going to leave behind until further construction happens to make sure that safety is being adhered to and to reopen public access to the sidewalk. We had a meeting with soils and foundation engineers out of the main office at State of CT. We did an as-built survey which the developer paid for. The engineers could determine what slopes we have, existing foundation walls that butted up to the sidewalk of Route 34 left in place. There is a small area that needs some minor work to achieve the allowable slope limit that the soil and foundation engineers from DOT feels acceptable for the stability of the wall. There is approximately 120 feet that impacts the paper road in between Porch & Patio building to the slope. The material used for the slope was foundation material that was crushed and was classified to be structural material. It was used to backfill the existing retaining wall as well as reinforce where there were no more foundation walls.

I met with David Kopjanski and the State of CT building officials and walked the entire area last week and agreed on what action will be in regards to the slope work. I have talked with the City and they will provide additional jersey barriers and material to help

achieve that slope repair. As far as the sidewalk, the DOT was concerned with someone coming down the road and having a problem failing to stop, so we are going to have the jersey barriers there towards the back side of the sidewalk and arrange for more permanent type of fence or secure the fence there. That would be an additional cost to the City. The developer has rented the temporary fence for about a year. Mr. Dunne asked if the State specifically identified the need for the fence. Mr. Bietsch said it would attract a nuisance as well as a child stepping over the jersey barrier. It's more than a 3 ½ foot drop. Mr. Bietsch said there is liability and makes sense to him to put one there. Some of the barriers out there belong to Standard Demolition who wants to take them off site. I am helping the City meet the requirements of the State of CT, so we can open the sidewalk.

The UI poured the foundations and is in the process of rewiring the two street lights that have to go back up at their cost. The remaining decorative lights have been bent and classified as a trip hazard. The wiring has been removed; the State wants those bolts cut off. The asphalt areas for utility disconnects has to be removed and concrete put in its place. The demolition contractor came back to remove some old basement hatches and backfilled and concrete poured in.

Mr. Dunne asked if the sloping is going to go on the pass way? Mr. Bietsch said it will impact the pass way. It will affect the access that is there. Mr. Dunne said there are three parties with the right to pass and repass exclusive of the City and the properties the City is acquiring. That leaves the developer, Calvert and Yacobacci. Mr. Bietsch said he is not sure. The DOT has requirements as far as opening up a paper road. Mr. Dunne asked if the shoring of Route 34 is temporary. Mr. Bietsch said yes, because it is not how it is going to be. In the plans we presented that would change that entirely. Mr. Orazietti asked if the fencing is something that needs to be done immediately. Mr. Bietsch said yes. Mr. Orazietti asked what the cost to the City will be. Mr. Bietsch said he will be researching that. Part of that fence is tied up with Standard Demolition. Mr. Dunne stated part of that will be discussed in Executive Session. Mr. Orazietti asked if the litigation would have to be resolved before we get a price for the fence. Mr. Dunne said he did not think so. The City is the property owner and has a responsibility to put the fence up. The City may be able to recoup some of the money. Mr. Orazietti asked if there was a timetable as to when we will get the price. Mr. Bietsch said within a week's time.

Mr. Russo asked if all this work will be done in time for the fireworks. Mr. Dunne said the fence that is there now will either be in place for the fireworks or otherwise. Part of the slope area is restricted and will be handled by the City. Mr. Orazietti wanted to know if the jersey barriers will hold up the work on the slope or does Standard just want them back. Mr. Dunne stated they are just barriers he is claiming ownership of. It's not a stability issue, and the City has barriers that it is going to use.

Mr. Dunne had a question regarding measures of erosion and sediment control. What jeopardy we are in, we have had some wash outs. Mr. Bietsch said it involves where the grass is growing. Standard Demolition put some top soil on the slope and that was right before a heavy rain storm. There was some erosion that put some top soil on top of the millings that people have used as a parking area. It is not causing any type of environmental issues at this time. It's an isolated area and cannot get into the river. Mr. Dunne said in terms of sediment and erosion control, it is the City's intention that where there is a reasonable slope and reasonable material and top soil in place, seeded and grass

growing, the City will maintain that. Other areas the slope is not reasonable for mowing and maintenance. We may not seed those areas. Mr. Dunne said in terms of renderings and cost analysis to the extent that they are required under the agreement those are available and on file.

At what point in the larger scheme of this project do you see the City having possession of a plan that is more of a concept and with a costing. Would it occur with a building application? Mr. Skolnick said that is when it would happen. However, we're going to get to a point where the gap funding is being put into place. And there would be requirements from state and federal agencies for more detail than what we have at this point. Mr. Dunne asked when it would be in the public domain. Would it be at the site plan review for P&Z? Mr. Skolnick stated the renderings provided by Street Works fairly accurately showed the intent including elevations and cross sections which are available. Those are the drawings that the construction manager used for the cost of infrastructure. Mr. Dunne stated those cost analysis are in the City's possession and it is just not available to the public at this time. It has more to do with protecting the rights and the negotiating process at this point.

Executive Session *Motion to go in to Executive Session for the purposes of Corporation Counsel's update on site negotiations, by Greg Russo with a second by John Oraziotti, with an invitation for Corporation Counsel and the Director of Development; Sheila O'Malley, the Mayor if possible to come out of the School Building Committee meeting and the Developer Team for an update on the parcel status along with the President of the Board of Alderman and members of the Board of Aldermen present at 7:24 p.m. all in favor, Motion passes.*

Motion by Greg Russo with a second by John Oraziotti at 8:11 p.m. to come out of Executive Session, all in favor, Motion passes.

Discussion re: potential impacts of eminent domain legislation Mr. Dunne stated we are not talking about anything in particular to a site. Both houses approved a bill that affects use of eminent domain. It says taking of real property by municipalities for redevelopment and economic development. The bill was passed by the legislature. We fully expect the governor to sign it, but the governor has not yet signed it. No one has seen the proposed Public Act. There are some pieces of this that could ultimately affect our future use of eminent domain should we choose to. We have not invoked eminent domain in this project. The City is negotiating over the sites. We've encouraged the developer with developer's purchase of the site may be more feasible than the City's direct purchase to do so. As of today, we don't know that eminent domain may be necessary on any particular piece. The bill makes changes to three sets of statutes; Redevelopment Chapter 130, Municipal Development Chapter 132 and Manufacturing Assistance Act. It says: 1. prohibits taking of property by eminent domain for the primary purpose of increasing local tax revenue, 2. requires a public hearing on a plan with certain findings on taking a property and 3. requires the town legislative body to approve proposed taking by two thirds vote of its members for taking under the municipal development and manufacturing assistance act. It does not require this for taking under the redevelopment statutes. We're hoping to see a proposed Public Act soon. We're

hoping to see some of the discrepancies that appear to be in the language, dealt with before it makes its way to the governor. We also expect the attorney general to issue one if not several opinions regarding this bill. The bill does not address what to do with regards to projects under those statutes that are in process. The effective date is also in question.

A two thirds vote of the legislative body for takings under municipal development which seem to indicate that is not required under redevelopment statutes. There is a ten year deadline for completing takings. There is a five year deadline from the first parcel to the last parcel. The City may extend that time period up to five years. It allows owners to ask the court to enjoin the taking only if the agency did not follow correct procedures. It gives the former owner of the property being taken the right of first refusal to buy it back if it is not used for its intended purpose or another public purpose. With regard to our project the main issue had to do with the finding, the reason for taking it, the reason for declaring it a redevelopment zone. This only deals with the taking of property for the primary purpose of increasing local tax revenue. As I recall the reason for taking these properties was predominantly the need to eliminate blight, slum and public safety. Later, it talked about the lack of production of tax revenue as a secondary issue. I think it is questionable if that affects us. The basis of compensation for the taking of property is the average value of two independent appraisals for takings under redevelopment. This should equal 125% of value. The City has offered the higher of the two appraisals. The bill prohibits towns from taking property under the general municipal powers statutes for private commercial development. We are not in that. There are a couple of other procedural changes for the review by courts for compensation awards. I will forward a copy to members. It is not the be all end all.

Adjournment: *Motion to adjourn at 8:22 p.m. by John Oraziotti with a second by Greg Russo, all in favor, motion passes.*