

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

Theodore J. Estwan, Jr., Chairman

Steven A. Jalowiec

David J. Rogers

David Barboza II

Richard A. Stankye

Albert Misiewicz

Glenn H. Stevens

David L. Savo (Alternate)

Joseph Gruttadauria III (Alternate)

Maryanne DeTullio, Clerk

A meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, December 19, 2006 at 7:00 p.m. in the Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:00 p.m. by Chairman Ted Estwan. Present were Ted Estwan, David Rogers, Steven Jalowiec, Albert Misiewicz, Glenn Stevens, David Barboza and David Savo. Also present were Atty. Joseph Coppola, Mike Joyce, Milone & MacBroom and Maryanne DeTullio, Clerk.

### Additions, Deletions, Corrections to Agenda

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

### Election of Chairman

Mr. Jalowiec moved to nominate Ted Estwan for Chairman. The motion was seconded by Mr. Barboza and carried unanimously with Mr. Estwan abstaining.

### Public Portion

Dan Waleski, 21 Elm Street stated that the building at the corner of Derby Avenue, Gilbert Street and New Haven Avenue is being repainted pink and he felt that a more appropriate color should be used.

### Approval of Minutes:

A motion to approve the minutes of 11/21/06 minutes was made by Mr. Barboza, seconded by Mr. Jalowiec and carried unanimously with Mr. Savo abstaining.

### Acceptance of Applications:

Mr. Stevens moved to accept an application for CDD approval from John Coscia for 71 Elizabeth Street. The motion was seconded by Mr. Jalowiec and carried unanimously.

Public Hearings:

(a) Application for Special Exception from Griffin Health Services Corporation for Ambulatory Care Center, Seymour Avenue/Division Street - I-1 Zone.

Atty. Thomas Welch was present for the applicant. He stated that the certified mailings were presented to the office. He also presented the traffic study, drainage report, response from the City Engineer, notice to the City of Ansonia, WPCA approval and response to the City Engineer letter. This is a special exception application for an ambulatory care facility at the intersection of Division Street and Seymour Avenue. The proposed use is in accordance with Section 195-44 and it is a permitted special exception use. He stated that the proposed development will be in harmony with the appropriate orderly development of the zone, neighborhood and city and will not be detrimental to established properties in the area.

Pat Charmel, President of Griffin Hospital stated that this is the largest expansion project being undertaken by the Hospital. They are planning to expand services that are currently housed in the main hospital building into the new building but the main use will be a community cancer center. They will also be able to expand areas of the hospital once this new facility is built.

Kyle Slocum, landscaping architect stated that the site is largely paved and has several buildings on it which will all be removed. The new building will be located in the westerly portion of the site and the site excavated to accomplish that. The first floor elevation will sit slightly above the road elevation of Seymour and Division Street. The drop-off area will be approximately 8' above Seymour Avenue. He presented plans showing the location of the buildings and parking areas. He stated that there will be excavation of soil and bedrock, sub-surface rock to accommodate that building. He stated that they will be following all regulations of the city and state in the excavation work. He also stated that 207 parking spaces are required and they will be providing 230 spaces.

There are two major points of access to the front door. The main entrance is directly across from Seymour Avenue and the secondary entry is from Division Street. There will be no access off of Mohawk Avenue. There will be landscaping throughout the parking lot and also to screen and buffer the site. They will be complying with the lighting regulations and there will be no light pollution extending from the site. There will be a garden space in the rear of the building. The southern end of the building will require the most excavating.

David Neal stated that the front portion that faces Seymour Avenue will be three story which will be basically the medical office component. The main level is the cancer center and on the right side is the medical oncology and the left side is the radiation oncology. He stated that toward the front of the medical office portion is a special procedures area. This area is presently located in the hospital and will now be in the new building. The third floor will be a cardiac rehab area. The mechanical units on the roof will be fully screened with metal enclosures and the front area will have a canopy

will be masonry construction.

Graham Stevens spoke about the storm water detention system and stated that the pipes will be located underground. There will be no increase in runoff. He stated that they received approvals from the WPCA and Inland Wetlands Agency. They have also received a letter from Birmingham Utilities that the site can be serviced by city water.

Carl Smith stated that a traffic assessment study has been done. The State has asked that other intersections in the area be looked at in addition to those in the immediate area. He stated that the traffic study was done during two peak hours - a morning and evening peak hour. The study found no significant impacts from this facility either at the local intersections or Route 8 ramp intersections. He stated that they are in the permit process with the State of Connecticut.

Kyle Slocum stated that they have responded to the comments of the city engineer and the responses submitted. He stated that the proposed improvements associated with Route 8 were taken into consideration and used those plans to design the edge of the parking lot to conform to the future improvements. He also stated that they will work with the city engineer on whether an additional catchbasin is needed. Boring logs have been presented.

Mr. Joyce stated that the state traffic study did not include the Griffin Hospital expansion. He suggested that a letter be sent to the State that this study be incorporated into their plans.

Mr. Slocum spoke on the reuse of on site excavation materials and stated that there will be stockpile areas which are shown on the plans. There will be some rock removal and that will be done through mechanical means or blasting. He stated that pre-blasting surveys will be done and all activities will be done in accordance with state regulations.

Atty. Welch stated that as part of the agreement with the neighbors they have agreed to provide more than what is required by the state with regard to pre and post blasting surveys.

Mr. Slocum stated that they hope to reuse the material on site. He stated that an operational plan has been prepared by Turner Construction.

Mr. Bartoli, Turner Construction stated that they anticipate that there will be site work activity over the duration of the project but the most intense period will clearly be the first three months when the mass excavation work is done. They will be carving into the hill and also installing the sub-surface drainage and utility work. The rock crushing process will be on the end of the three month period. A portable rock crushing operation will be set up on the site and they anticipate that it will be in operation for four weeks. Mr. Joyce asked where on site the rock crushing will be located and what the hours of operation will be. Mr. Bartoli stated that they will be in conformance with the hours of operation that are established for construction with that operation and it would

most

likely be centrally located on the site.

Mr. Slocum stated that with regards to the Fire Marshal's letter the building was designed to meet all state and city codes and they will meet with him to discuss his concerns. Mr. Estwan read the Fire Marshal's letter into the record. Mr. Slocum stated that they are willing to install the fire hydrant that he recommends.

Mr. Slocum stated that with respect to the planting buffers there will be a six foot high wood fence with evergreen plantings along the abutting residential properties. There will also be the same between the southerly parking area and Seymour Avenue. He stated that there is soil on top of bedrock and in order to stabilize the site they will expose the bedrock and that will become the wall base. The areas will have fence for safety purposes. He stated that an easement will be provided so that Mr. DeFilippo may have access to his property and they would like to keep the trees until Mr. DeFilippo wants to gain access to his property at which time Griffin Hospital will remove the trees. Mr. Slocum reviewed the signing that is being proposed.

Mr. Slocum stated that because of the unusual shape of the foot print the city engineer asked that a calculation of various areas be submitted. Those were submitted so that he may see how the parking was calculated. The plans were modified to accommodate five additional handicap parking spaces.

Atty. Welch thanked the Commission for the opportunity to make the proposal and stated that Griffin Hospital has made every effort to protect the integrity of the neighborhood in accordance with the regulations.

Mr. Estwan read a letter from CJ Nero LLC regarding concerns with the proposed blasting. Mr. Rogers asked about a traffic control at the crosswalk and Mr. Slocum stated that they have not considered a control measure and curb ramps have been done. Mr. Estwan asked for any public comment on the application.

Carl Nero stated that he owns a grinding company with sensitive equipment and was concerned about blasting and heavy equipment in the area effecting his business. Mr. Bartoli from Turner Construction stated that his concerns will be addressed during pre-blasting surveys. He stated that they will set up a test to see the exact amount of vibrations and coordinate with the business owner on how his business will be effected. Mr. Slocum stated that they understand his concerns and the regulations are very stringent and they will make sure that everything is done in accordance with the regulations.

Paula Amoroso, 204 Emmett Avenue asked during what hours the traffic study was done. Mr. Smith stated that between 7:15 and 8:15 a.m. and 3:00 and 4:00 p.m. Ms. Amoroso stated that there is a lot of traffic in the area and it is difficult to exit from some of the side streets. Mr. Smith stated that the study did not show any adverse impacts and felt that the additional parking being provided will help with the traffic. Ms. Amoroso

asked if there were any health risks to the community from any of the equipment in the new facility. Mr. Neal stated that there is a physicist on hand to review that. The Planning & Zoning Commission 5 December 19, 2006

radiation is kept in a concrete vault which is FDA approved and reviewed. Ms. Amoroso asked if there was going to be more patient rooms in the emergency area. Mr. Neal stated that the new facility will allow for some departments to expand in the present hospital building. Mr. Charmel stated that they will be re-establishing 14 patient rooms and will also be expanding the treatment rooms in the emergency department. Ms. Amoroso asked if there will be the same noise levels from this facility as from the hospital. Mr. Estwan stated that there will be no patient rooms in the new facility and the hours of operation will be normal working hours. Mr. Slocum stated that there will be some mechanical units on the roof but they will be screened.

Sal DeFilippo, 3 Colony Street, Shelton stated that he owns property along Mohawk Avenue and is opposed to this facility and is concerned about protecting his interests and his property value. He stated that he was opposed to the abandonment of a portion of Mohawk Avenue and felt that they are cutting off the access to his property. Atty. Welch stated that he can access his property from the easement that the Hospital will be providing.

Sharlene McEvoy, 200 Emmett Avenue representing several neighbors stated that they had reached an agreement with the Hospital and they have now been informed that the Hospital wants to make some changes to that agreement. She stated that they felt that they had all the issues resolved and now they want to make changes. She stated that they want to cooperate but want their interests protected. She also stated that the agreement has been recorded on the land records. She also stated that there are some issues with the STC that still need to be resolved and there will be a lot of blasting and disruption to the neighborhood. Mr. Estwan stated that the STC will not act until local approval is granted. Mr. Charmel stated that the service parking may encroach on the area but it will allow for a handicap space. He stated that they are hoping that the neighbors will allow for that space to encroach and if they will not it is all right. Mr. Estwan asked if there were any changes to the pre or post blasting surveys and Mr. Charmel stated that the major points of the agreement have not changed; it is only a technical point.

Dan Waleski, 21 Elm Street stated that this is a large project and it will impact the sewage capacity and also trash pick up. He was concerned about the quality of runoff from the site and the potential impacts to the entire City. He also asked if any comments were received from the City of Ansonia. Mr. Estwan stated that they were notified of the application and no response received. Mr. Slocum stated that trash removal will be done during specific hours and the storm water drainage must meet all regulations.

Bill Purcell, President Valley Chamber of Commerce stated that this facility is needed in the Valley. There will be economic benefits to the area and they are in favor of the project.

Glenn Stevens asked when the traffic study was done and if it was on one day or over

several days. Mr. Smith stated that it was done on 4/10/06 and Mr. Stevens stated that there was no school that day and felt that there is more traffic when school is in session.

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Mr. Smith stated that was taken into consideration but he will check. Mr. Stevens felt that should be looked into and also provide a procedure to follow if there is an emergency during construction. Mr. Bartoli stated that there will be signage on the site and procedures to follow. Mr. Stevens stated that there are water and drainage issues in that area and there could be potential problems from blasting.

Mr. Barboza asked if consideration was given to making this a "green" building and Mr. Neal stated that they looked into that but cost impacts made it impossible. He stated that there will be a garden setting in the rear and they will be using some of the rock outcroppings and rocks on the site.

Mr. Joyce stated that some new information has been submitted that needs to be reviewed as well as further discussions with the Fire Marshal.

Mr. DeFilippo asked about the right of way and Mr. Estwan stated that it will be shown on the maps that will be filed.

Atty. Coppola asked if all the properties are now under one ownership and Atty. Welch stated that they have been consolidated.

Mr. Estwan stated that the Fire Marshal concerns need to be addressed and some clarification with the traffic study. A motion to continue the public hearing was made by Mr. Jalowiec, seconded by Mr. Barboza and carried unanimously.

(b) Application for Special Exception from Mangione Properties, LLC for construction of contractor's business building - Commerce Street - B-2 Z one.

Atty. James Cohen and Fabio Mangione were present. Atty. Cohen presented copies of the certified mailings and pictures of the site. He also provided responses to comments from the City Engineer. The site is zoned B-2 and this is a permitted use under special exception. They are proposing a four bay building to house four contractor's businesses. He stated that the application before Inland Wetlands has been continued to next month for more information on the flood plain. He stated that they will be reclaiming a site that was an abandoned site for many years and it will be cleaned up. All clean up work will be done in accordance with DEP standards. They will be reducing the impervious area from 7600 s.f. to approximately 6247 s.f.

Rick Raymond, Giordano Associates stated that the flood plain elevation is 22' and the finished floor will be at elevation 22.8'. With regard to the driveway entire slope some new contours have been put in and it is at 8.2%. He stated that they added some curb on the east side to prevent run off into the adjacent property. He stated that with regard to the units that were going to be on the building the air conditioning units will be in the rear on pads. The heating units will be on the roof. They have added some yard drains in the rear of the building to collect some of the runoff from Route 34. They have tied the roof drains into them and they all tie into the existing drainage system on site. He

submitted details of the lighting.

Mr. Joyce stated that the survey indicates the 1988 data and the FEMA maps use 1929 data and he asked if a new survey has been prepared using that data. Mr. Raymond stated that a new survey was done and it is indicated on the plans. Mr. Joyce stated that a copy of that revised survey should be submitted. Mr. Joyce also asked about the drainage system on site crosses to the adjacent property and if there is an easement. Atty. Cohen stated that the pipe goes diagonally over both properties. This was one property under one ownership for many years and then it was divided and sold as two separate properties. He stated that they will request an easement from the adjacent property owner. Mr. Joyce stated that the plans shown an existing water main cuts across a corner of the property and asked if there is an easement in favor of Birmingham Utilities for the. Atty. Cohen stated that they have not done a title search but feels that there is no easement. It may have been put in when the area was not part of the roadway. Mr. Estwan stated that any environmental concerns will be met and Atty. Cohen stated that the tanks will be removed and all work will be done to DEP standards.

Mr. Joyce stated that there is not a lot of room on the site for landscaping but there appears to be room on the southern side of the building for some plantings. There is a grass area that can be extended. Mr. Joyce stated that since the building is visible from Route 34 what the view will be. Mr. Raymond stated that you will see the top of the building and a block building. Mr. Estwan stated that he did not see any problem with a block building and suggested adding some plantings. Mr. Joyce asked about the number of employees and the parking spaces available. He also stated that the internal set up should be dedicated for parking. Atty. Cohen stated that there is a question between segregating and delineating. Mr. Joyce stated that there might possibly be a fire related wall to separate the garage from the parking spaces. If it is not reserved for a parking space it can be used for something else. Atty. Cohen stated that there will be no parking done overnight it is only for when a vehicle comes in the morning, put his equipment in and leaves. He stated that they will have to find a way to demonstrate that it will not be used for anything else but parking. It is not a garage. Mr. Estwan stated that a change was made to allow for a contractor's business in this zone. Mr. Estwan stated that it was his opinion that it will not be used for anything else but a contractor's business. Mr. Rogers asked about the capacity of the sewage pump chamber. Mr. Raymond stated that it was listed on the plans.

There was no public comment on the application. Mr. Estwan read the letter from the Fire Marshal which incited no problems for fire access. A motion to continue the public hearing was made by Mr. Savo, seconded by Mr. Barboza and carried unanimously.

(c) Application for Resubdivision from Walter Skowronski for 400 Hawthorne Avenue - R-5 Zone.

Ted Witek was present and stated that this is a lot split which meets all zoning regulations. City sewers and water are available. He submitted the certified mailings. Mr. Witek stated that the property was subdivided in 1933 into two lots and the applicant

obtained it as one parcel. They now wish to subdivide that into two lots. There is an existing house with garage and the proposed house will be located in the northerly end.

The existing driveway was a proposed road back in 1933 but because it did not meet the standards it was left open as a passway. The rear property to the south has access over this driveway. Mr. Joyce asked about a setback adjustment in the rear and Mr. Witek stated that he adjusted the setback line as a triangular irregular lot.

Steve Littlefield, 404 Hawthorne Avenue stated that there is not a lot of room to put in a house and the existing garage is right on the property line. He was also concerned about the number of vehicles using the driveway.

Mr. Joyce asked about the square footage of the proposed house and Mr. Witek stated that it is within the setbacks and would be 1360 s.f. for house and garage. Mr. Witek stated that all three parcels will use the driveway access and there is an easement in place and it goes with the properties. The land that is being split owns the land with the easement area and they have the right to grant the easement.

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

(d) Application for Modification of Existing Special Exception from Allvision LLC for replace of existing billboard - B-2 Zone.

Mr. Estwan read a letter from Atty. Lewis K. Wise requesting that the public hearing be continued to the January meeting.

(e) Application for Resubdivision from Terra Development LLC, Edgewood Estates, Derby Neck Road - R-1 Zone.

Atty. Dominick Thomas stated that certified mailings were submitted and he also submitted a revised detention basin agreement and quit claim deed. He stated that the map for the original approval was not recorded within the 90 day period. He stated that an application has been filed and asked that the original set of plans which were approved be included. The plans were approved in June, 2005 and then revised twice thereafter. The drainage basin agreement was revised slightly and the detention basin is located within Lot 10. This agreement is subject to approval by the corporation counsel. Atty. Thomas stated that in the original approval there was a 10' strip that went along the back of Lot 5 as public access to the open space. The Commission determined that they did not really want public open space because of the topography of this area. It was suggested that the open space be given to the homeowner's association and a separate deed has now been prepared regarding the open space. He stated that after review of this they felt that it would be better to make the open space a conservation easement where the applicant would post every 50' along the boundary of the conservation easement notices of the conservation easement areas. The open space would be divided among the lots along that area and the conservation easement recorded on the land records. Atty. Thomas stated that the conservation easement

protects the open space and does not create an island of open space. Atty. Coppola stated that with the conservation easement the city would have the right to stop anyone from cutting down trees or doing something else in that area. This would be better for Planning & Zoning Commission 9 December 19, 2006

the City. Atty. Thomas asked about the refund of the fee. He stated that they paid \$3,050. and the Board of Aldermen waived the application fee only. The review fee and public hearing fee was not refunded. He stated that they agree that they should pay the public notice fee but asked that a recommendation be made to the Board of Aldermen that the review portion be refunded. Mr. Estwan stated that there was still review work by the city engineer and corporation counsel. Mr. Joyce stated that he did not have to go through a detailed review but a review was still needed. Atty. Thomas stated that they did not think there would be a review fee and if it is less they should like that amount refunded. Mr. Estwan stated that the conservation easement and homeowner's agreement have to be reviewed.

There was no public comment on the application. A motion to close the public hearing was made by Mr. Stevens, seconded by Mr. Jalowiec and carried unanimously.

A motion to approve the application subject to corporation counsel and city engineer review of the detention basin maintenance agreement and conservation easement agreement was made by Mr. Barboza, seconded by Mr. Savo and carried unanimously. All conditions of the original approval are part of this approval.

### New Business

(a) Application for Site Plan Approval from Patel's LLC for 441 Roosevelt Drive - Expanding Existing Retail Space, add addition retail and office space and maintain two apartments - B-2 Zone.

Don Smith was present and stated that the building presently has Derby Discount Liquors and two residential apartments on the second floor and a garage in the basement from the back. There is an electrical contractor that has a small storage area in the basement. The proposal is to add on an addition approximately 24 X 38 - 912 s.f. per floor. The first floor being retail and the second floor offices. The existing uses will remain. The proposed addition will have a commercial kitchen in the basement and a take-out food establishment on the first floor. There are 23 parking spaces being provided and the residential spaces will be in the rear which will be signed and reserved. They have received Inland-Wetlands approval and are still pending before WPCA and also the DOT. He stated that they have responded to the first comments from DOT.

Mr. Smith stated that the parking configuration is a little difficult. There are two existing driveways but the front of the property is more or less open. There is not sufficient room between the face of the building and the street line to do any kind of angled parking. The spaces are parallel with Route 34 and some additional spaces in the rear. There is some landscaping proposed around the perimeter. The existing sign is non-conforming and it will be relocated so that it is in conformance with the regulations. There is no increase in storm water flows. Mr. Estwan stated that the plans have been revised and

the other addition has been removed. He stated that since the plans have been revised he asked that a 30 day extension request be submitted. Mr. Smith asked for a 30 day extension. He read the Fire Marshal's letter which indicated no problem for fire access.

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A motion to grant the 30 day extension was made by Mr. Jalowiec, seconded by Mr. Stevens and carried unanimously.

(b) Application for CDD Approval from Angelo Giordano, Derby Dan LLC for 58 Minerva Street.

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

(c) Application for Site Plan Approval from Jalowiec Realty Associates, LP for 90 and 114 Sodom Lane.

Steve Jalowiec recused himself from hearing this application. J. Rotondo and Joseph Jalowiec were present. Mr. Rotondo stated that 90 Sodom Lane is approximately .28 acres in size and contains an existing building and parking which basically takes up the entire site. There are two driveway curb cuts. 114 Sodom Lane is served by a driveway from Sodom Lane. There is a brook that bisects the site and they have received Inland Wetlands approval. The proposal is to expand the two existing buildings. The total gross floor area for 90 Sodom Lane will be increased to 7160 s.f. which includes the existing building and 114 Sodom Lane will be increased to 8398 s.f., totalling 15,558 s.f. total gross floor area. Each building will be accessed separately from Sodom Lane. They will be providing parking for 42 cars and a pedestrian bridge over the existing brook. He stated that at 114 Sodom Lane some of the spaces will be designated as visitor spaces. There will be landscaping along the property. The lighting will be provided by wall mounted units on the building and some post mounted lights at the bridge. The two sites will be serviced by water and sewers. He stated that the project will be done in phases with the first phase for 114 Sodom Lane and the work in the wetlands area. Mr. Estwan read the letter from the Fire Marshal and Mr. Rotondo stated that they have addressed those concerns and removed some of the parking spaces and widened the driveway at both locations. There is also a fire lane designated. Mr. Rogers asked about the sight lines to the left from 114 Sodom Lane and Mr. Rotondo stated that the plantings are set back far enough so there should not be any issue with the sight lines.

Mr. Joyce explained some concerns with the traffic patterns and also reviewed the location of some of the parking spaces.

### Old Business

(a) Update on Redevelopment Zones

Payment of Bills

A motion to pay any bills submitted was made by Mr. Stevens, seconded by Mr. Savo and carried unanimously.

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Adoption of Meeting Schedule 2007

Mr. Stevens moved to adopt the meeting schedule for the third Tuesday of each month at 7:00 p.m. The motion was seconded by Mr. Misiewicz and carried unanimously.

A motion to adjourn was made by Mr. Stankye, seconded by Mr. Savo and carried unanimously. The meeting was adjourned at 11:10 p.m.

Attest:

Maryanne DeTullio