

DERBY PLANNING COMMISSION *MINUTES*** December 19, 2011**

MEMBERS PRESENT: Jim Bumps, Dave LaBelle, Joe Profera.

MEMBERS ABSENT: Brian Fisher, Richard Del Favero.

OTHERS PRESENT: Josee Ferland, Dereck Woolridge, Peter Cross, Richard Hoffman, Brent Hilliard, Tom Rooney, Clark Curtis, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Dec 5) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-107 by NCUHS, PIN #TRD56001E4T, for site plan approval for a 24 ft by 72 ft heavy equipment storage building. This property is located at 633 Upper Quarry Road. Mr. Hoffman, Mr. Hilliard and Mr. Rooney were present to explain the request. The building will be a pole barn on a gravel base with 6x6 posts. It will be enclosed on 3 sides and the front will be open. There will be no power to the building. The commission had questions about drainage and felt a site visit is warranted due to the lack of detail on the plan. A site visit was scheduled for tomorrow December 20, 2011 at 11:00 a.m. There was no testimony from interested parties. Dave LaBelle made a motion to table application 11-107 by NCUHS to conduct the site visit and reconvene the hearing on Monday January 16, 2012 at 7:00 pm here in the municipal building. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-110 by WEV USA LLC, PIN #NDRT5053F4C, for site plan approval for a 60,400 sq ft two-story building for light manufacturing, warehousing, offices and retail space. This property located on US Route 5 at I-91 Exit 28 and is in the Commercial (COM) zoning district. Mr. Woolridge, Mr. Cross and Ms. Ferland were present to explain the request. All aspects of the project were reviewed including parking, landscaping, drainage, traffic, access, circulation, loading docks, lighting, and snow removal. If possible they will try to make accommodations for the VAST trail. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-110 by WEV USA LLC. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The commission scheduled a public hearing on January 16, 2012 for a bylaw amendment to Article 3: Nonconforming Uses and Structures.

Clark Curtis was present and asked the commission to change the zoning district for his property from VR1/DL to VR2/DL. He is in the process of tearing down the building but has concerns that after the building is down any new structure would have to be setback further from the road. The buildings in this area all have about the same setback and he felt building further from the road would make the building look out of place. The commission agreed. They will discuss this further at their next meeting in January. Bob Kelley will draft a report for the proposed amendment.

After deliberations Jim Bumps made a motion to grant site plan approval for application 11-110 by WEV USA LLC as submitted (see attached written decision). Seconded by Dave LaBelle. **Approved by a unanimous decision.**

The Commission reviewed their mail.

8:30 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** December 5, 2011**

MEMBERS PRESENT: Jim Bumps, Dave LaBelle, Joe Profera.

MEMBERS ABSENT: Brian Fisher, Richard Del Favero.

OTHERS PRESENT: Brian Smith, Marc Nadeau, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Nov 21) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Bylaw amendments:

Adult Oriented Businesses - The group requesting an amendment to regulate Adult Oriented Businesses was not present. The Commission thought that they were going to submit a proposed amendment for the Commission to review. The ZA said that Rick DuBois was suppose to get together with him on the amendment but has not done so yet. The Commission tabled discussion on Adult Oriented Businesses until after an amendment has been submitted.

Marc Nadeau – Mr. Nadeau submitted a request that the bylaw be amended to allow “Petroleum/Propane Bulk Storage” as a permitted use in the Commercial/Industrial (COM/IND) zoning district. He explained the project he would like to do on Citizens Road. The Commission was receptive to the idea, but Joe would like the absent members to weigh in on the proposal. The request will be discussed again at their next meeting.

Nonconformities – The Commission reviewed a report for the proposed amendment to Article 3 – Nonconformities. Dave LaBelle made a motion to approve the report. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission reviewed their mail.

8:20 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** November 21, 2011**

MEMBERS PRESENT: Jim Bumps, Dave LaBelle, Brian Fisher, Joe Profera, Richard Del Favero.

MEMBERS ABSENT: None.

OTHERS PRESENT: Dave Bouffard, Brandie Slicer, Kirk Martin, Philip Brooks, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Nov 7) as written. Seconded by Brian Fisher. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-101 by the Orleans County Sheriff's Department, PIN #NDRT5003G2T, for site plan approval to change the use of their property to a sheriff's office and to add two 30 ft radio antennas. This property is located at 5578 US Route 5 and is in the Commercial (COM) zoning district. Mr. Martin and Mr. Brooks were present to explain the request. Almost all the work is to the interior. The 2 fiberglass whip antennas will be mounted on the peak of the roof and are approximately 18 to 22 ft high. The fence for the vehicle impound area may not be completed right away. Traffic is estimated at 1/4 to 1/3 of what the bank had. No change to the exterior lighting and a small dumpster will be in the rear. The building will be open to the public from 8:00 to 4:30 M-F. There was no testimony from interested parties. Richard Del Favero made a motion to close the hearing on application 11-101 by the Orleans County Sheriff's Department. Seconded by Dave LaBelle. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Bylaw amendments: Dave Bouffard was present to request an amendment to allow nonconforming structures to be enlarged provide the addition does not get any closer to the lot line causing the nonconformity. He is hoping to put a small addition onto the Derby Village Store, essentially squaring up the building. The Commission was receptive to the change. The ZA suggested that now would be a good time to rewrite the entire nonconformity section as it is very confusing. He passed out a draft for the Commission to review incorporation the change requested by Mr. Bouffard. The Commission liked the draft, the ZA will draft the required report for their next meeting so that the hearing for the amendment can be warned.

The Commission reviewed their mail.

Dave LaBelle made a motion to go into deliberative session to discuss closed applications. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Upon returning from deliberative session Jim Bumps made a motion to site plan approval for application 11-101 by the Orleans County Sheriff's Department as submitted with the condition that the dumpster must be screened from view (see attached written decision). Seconded by Dave LaBelle. **Approved by a unanimous decision.**

8:30 p.m.: Upon a motion by Brian Fisher and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION ***MINUTES*** November 7, 2011

MEMBERS PRESENT: Jim Bumps, Dave LaBelle, Brian Fisher.

MEMBERS ABSENT: Joe Profera, Richard Del Favero.

OTHERS PRESENT: Elizabeth Bumps, Maureen Fountain, Edward Stonebraker, Laurie Stonebraker, John Stevens, George Azur, Richard Dubois, Berlly Jenne, ZA Bob Kelley.

7:00 p.m.: Vice-Chair Dave LaBelle called the meeting to order. Brian Fisher made a motion to approve the minutes to the last meeting (Oct 24) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Vice-Chair Dave LaBelle read the warning for application 11-074 by Robert Jackson, PIN #TRD04079C3TR3, for preliminary and final plat approval to subdivide his 32 acre lot into 5 lots varying in size from 5 acres to 11 acres. This property is located off the Darling Hill Road on a private R.O.W. and is the Residential Two Acre (R2) zoning district. **Note: This application was table from the October 24, 2011 meeting.** Mr. Stevens and Mr. Azur were present to explain the request. The proposed subdivision has been reduce from 5 lots to 3 lots by combining lots #2 & #3 into one lot and combining lots #4 & #5 into one lot. A letter from the fire chief was submitted withdrawing his earlier recommendation of a dry hydrant being installed in the pond adjacent to the R.O.W. Maureen Fountain expressed her concerns with this development as it may affect her water supply. The existing private R.O.W. accessing this lot and the proposed R.O.W. on this lot were discussed. After all testimony was received Jim Bumps made a motion to close the hearing on application 11-074 by Robert Jackson. Seconded by Brian Fisher. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The next item on the agenda (application by Derby Historical Society) was skipped over as the application was been denied by the Zoning Board of Adjustment and therefore no hearing is required by the Planning Commission. Laurie Stonebraker asked questions about the process. The Commission and ZA explained the process to her.

Bylaw amendments: A small group lead by Richard Dubois was present to request that adult businesses be regulated because of the adverse secondary impacts these business may cause if not closely regulated. They would like to see something similar to VLCT's Model Adult Business Zoning Bylaw. They will work on an amendment to present to the Commission at a later date. It was noted that any future amendment would not affect existing adult orientated businesses.

The Commission deliberated on the Jackson application.

Jim Bumps made a motion to grant final plat approval for application 11-074 by Robert Jackson for a 3-lot subdivision as submitted with the condition that a mylar of the approved plat must be filed with the Town Clerk within 180 days of this decision (see attached written decision). Seconded by Brian Fisher. **Approved by a unanimous decision.**

The Commission reviewed their mail.

8:20 p.m.: Upon a motion by Jim Bumps and seconded by Brian Fisher, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** October 24, 2011**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle, Richard Del Favero, Brian Fisher.

MEMBERS ABSENT: None.

OTHERS PRESENT: Elizabeth Bumps, Berilya Jenne, Lynn Batchelor, James Bartley, Robin Smith, Maureen Fountain, Edward Stonebraker, Lauri Stonebraker, John Stevens, George Azur, Richard Dubois, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Sept 26) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-091 by McDonalds Corp, PIN #NDRT5037G3T, for site plan approval to eliminate one parking space to accommodate a larger trash compactor. This property is located at 4558 US Route 5 and is in a Commercial (COM) zoning district. Mr. Bartley was present to explain the request. The enclosure for the compactor will be plywood with vinyl siding. The Commission was not concerned with the elimination of one parking space. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-091 by McDonalds Corp. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 11-074 by Robert Jackson, PIN #TRD04079C3TR3, for preliminary and final plat approval to subdivide his 32 acre lot into 5 lots varying in size from 5 acres to 11 acres. This property is located off the Darling Hill Road on a private R.O.W. and is the Residential Two Acre (R2) zoning district. **Note: This application was table from the September 12, 2011 meeting.** Mr. Stevens and Mr. Azur were present to explain the request. Mr. Azur is the potential purchaser of the property. Maureen Fountain was present and had concerns how the project may affect her spring fed well. She lives in the area, but is not a direct abutter to the property. The septic systems are clumped together on one lot. Mr. Stevens submitted a revised plat for only 3 lots so that the road does not have to be built to town specs. Lots 2 & 3 were combined into one lot as were lots 4 & 5. The ZA wanted the Commission to clarify if the existing R.O.W. from Darling Hill Road would need to be upgraded to town specs because of the increase in the number of lots it would access. §703 was reviewed. The requirement for a dry hydrant was discussed. The owner of the pond has not agreed to installing a dry hydrant. Due to the reduction of the subdivision from 5 lots to 3 lots the Commission would like to know if the Fire Chief would still recommend a dry hydrant. Dave LaBelle made a motion to recess the hearing on application 11-074 by Robert Jackson until 7:00 p.m. Monday, November 7, 2011 here in the municipal building. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The applicant was not present for application 11-096 by the Derby Historical Society, PIN #SMSDC009G5CTXM, for site plan approval to change the use of the building from a Community Cultural Center to Retail or Office. This property is located at 540 Main Street, Derby Center and is in the Village Residential Multi-Family Derby Center (VRMFDC) zoning district. It was noted that the Zoning Board has not decided if the proposed use is less nonconforming than the existing use. The Planning Commission generally likes to wait until the Zoning Board has ruled on an issue before discussing an application. Abutting property owner Lauri Stonebraker submitted a letter stating their concerns with the proposal. Dave LaBelle made a motion to recess the hearing on 11-096 by the Derby Historical Society until 7:00 p.m.

Monday, November 7, 2011 here in the municipal building. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Other Business: Dave Bouffard was present to explain a project he would like to do at the Derby Village Store involving an addition to the building to square it up. Because of setback issue it is not allow under the current bylaw and he was wondering if the Commission would be willing to amend the bylaws to allow for this type of development. Changes to the section on nonconformities and waivers were discussed. The Commission felt that there is probably a way to amend the bylaw that will be beneficial to the Town and Mr. Bouffard.

The Commission deliberated on the McDonalds application.

Dave LaBelle made a motion to grant site plan approval for application 11-091 by McDonalds Corp as submitted (see attached written decision). Seconded by Richard Del Favero. **Approved by a unanimous decision.**

The Commission reviewed their mail.

9:00 p.m.: Upon a motion by Jim Bumps and seconded by Brian Fisher, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** Sept 26, 2011**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Richard Del Favero.

OTHERS PRESENT: Mark Stewart, Joe Warantz, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Sept 12) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-088 by Fred Oeschger, PIN #TR005040D6T, for preliminary and final plat review to split off a 2.87 acre lot from a 39 acre parcel. This property is located at 4 Sweetwater Run and is in a Residential Two-Acre (R2) zoning district. Mr. Stewart was present to explain the request. The Commission reviewed the proposed plat. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-088 by Fred Oeschger. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 11-090 by Midtown Estates LLC, PIN #NDRT5046G4T, for site plan approval to change the use of a portion of the building from office to retail/office. This property is located at 4267 Route 5 and is in the Commercial (COM) zoning district. Mr. Warantz was present to explain the request. He explained the project and answered questions from the Commission. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-090 by Midtown Estates LLC. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Other Business: Karen Jenne gave the Commission full sized maps of the proposed wind mills on the Davis and Chase farms. The Commission felt it would be a waste of their time to review this project as it will be before the Public Service Board and will not require Planning Commission approval.

The Commission deliberated on the above applications.

Dave LaBelle made a motion to grant final plat approval for application 11-088 by Fred Oeschger as submitted with the condition that a mylar of the approved plat must be recorded with the Town Clerk within 180 days of this decision (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion to grant site plan approval for application 11-090 by Midtown Estates LLC as submitted (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission reviewed their mail.

8:05 p.m.: Upon a motion by Jim Bumps and seconded by Dave LaBelle, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** Sept 12, 2011**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle, Richard Del Favero.

MEMBERS ABSENT: None.

OTHERS PRESENT: John Stevens, Conrad Bellavance, Bill Simendinger, Steve Wright, Karen Jenne, Brian Fisher, Chris Blais, Lynn Batchelor, Perry Hunt, Roland Roy, Keith Beadle, Mitch Wonson, Bob Cooper, Laura Carpenter, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Aug 29) as written. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Dave LaBelle made a motion to change the order on the agenda and discuss item #3 Jackson application next. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Dave LaBelle made a motion to table application 11-074 by Robert Jackson until October 24, 2011 at 7:00 p.m. here in the Municipal Building. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-001 by Main Street Place LLC, PIN #MSTDL011A6L & MSTDL013A6L, for site plan approval to raze the buildings, bring it to grade and plant grass. This property is located at 50 & 58 Main Street, Derby Line and is the Village Commercial/Derby Line zoning district. This application was table from the August 1, 2011 meeting. Mr. Simendinger was present to explain the request. The revised site plan and pedestrian safety plan were reviewed. The stairway between the Roy property and the Main Street Place property was discussed in great length. Mr. Simendinger felt the stairway could be saved, if not he would replace it. Mr. Roy wants the stairway to be enclosed and the exterior to match the existing building (clapboard siding). Mr. Simendinger agreed with this request. Mr. Wonson asked about removal of the foundation material and if the grass would be mowed. He also stated that a permit would be required from the Village for work done within the village right-of-way and part of one building is in the right-of-way. Chris Blais was concerned that after the lot was vacant kids might fall down the bank along the rear of the property. Karen Jenne was concerned with how any disturbance to the bank may adversely affect existing erosion problems the Cemetery has with their bank. After all testimony was received Dave LaBelle made a motion to close the hearing on application 11-001 by Main Street Place LLC. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 11-081 by Fred's Plumbing and Heating, PIN #RT005032D6T, for sit plan approval for a 15 ft by 100 ft maintenance shop/cold storage addition. This property is located at 1683 VT Route 5 and is in the Commercial (COM) zoning district. This application was tabled from the August 29, 2011 meeting. Mr. Bellavance was present to explain the request. He explained the project and answered questions from the Commission. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-081 by Fred's Plumbing and Heating. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Other Business: Steve Wright from Craftsbury gave the Commission a handout about noise from

wind turbines. Karen Jenne asked that a copy be made for the Selectboard.

Upon a motion by Dave LaBelle and seconded by Jim Bumps the board went into deliberative session to discuss closed applications.

Upon returning from deliberative session Dave LaBelle made a motion to grant site plan approval for application 11-081 by Fred's Plumbing and Heating as submitted (see attached written decision). Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Dave LaBelle made a motion to grant site plan approval for application 11-001 by Main Street Place LLC as per the most recent site plan with the condition that the applicant must submit construction plans of the stairway to the Roy property drawn by a Vermont licensed engineer to cover concerns for safety and aesthetics. Seconded by Jim Bumps. **Ayes – Dave LaBelle, Jim Bumps. Nays Richard Del Favero, Joe Profera. No decision was made as it was a 2 – 2 tie.**

The Commission reviewed their mail.

8:45 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** August 29, 2011**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle, Richard Del Favero.

MEMBERS ABSENT: None.

OTHERS PRESENT: Will Dodge, Lynn Batchelor, Karen Jenne, James Brown, Deborah Brown, Robert Cooper, Mark Tarbox, Eric Grim, David Frothingham, Mark Wheeler, Luke Fontaine, Carol Boucher, Laura Carpenter, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Aug 15) as written. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Dave LaBelle made a motion to change the order on the agenda and discuss item #6 VELCO communication tower recommendation next. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Dave LaBelle made a motion to table the VELCO recommendation. Seconded by Richard Del Favero. **Approved by a unanimous decision with Jim Bumps recusing himself.**

Chair Joe Profera read the warning for application 11-079 by James Brown, PIN #TRD22071D8T, for preliminary and final plat approval to subdivide 5 acres off of a 200 acre farm. This property is located off Tonis Road and is in the Rural Residential (RR) zoning district. Mr. Brown was present to explain the request. The Commission reviewed the proposed plat. The right-of-way across the lot was discussed. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-079 by James Brown. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 11-080 by Tom Cyr & Ginette Provost, PIN #TRD22046E6T, for preliminary and final plat approval for a 4 lot subdivision. Lot #1 – 5 ac, lot #2 - 2 ac, lot #3 - 2.1 ac, and lot #4 – 43.9 ac. This property is located at 1504 Nelson Hill Road and is in the Residential Two Acre (R2) zoning district. Mr. Cyr was present to explain the request. The Commission reviewed the proposed plat. Mr. Cyr submitted a letter from the Fire Chief regarding fire protection. There is an existing single family dwelling on lot #1. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-080 by Tom Cyr & Ginette Provost. Seconded by Jim Bumps. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission skipped over item #4, application 11-081 by Fred's Plumbing and Heating as the applicant was not present.

Chair Joe Profera read the warning for application 11-084 by Richard Joyal, PIN #TRD41004G3T, for site plan approval for a 37,287 sq ft office building for Northeast Kingdom Human Services. This property is located off Crawford Road and is in the Commercial (COM) zoning district. Mr. Joyal, Mr. Grim, Mr. Wheeler and Mr. Frothingham were present to explain the request. Mr. Grim gave an overview of what NEKHS does and the reason for the project. Mr. Wheeler and Mr. Frothingham explained the details of the project. NEKHS will be purchasing the property from Mr. Joyal pending permit approvals. Among the items discussed

were parking, landscaping, storm water, lighting, circulation, deliveries, and hours of operation. The Commission felt the application materials were very thorough. There was no testimony from interested parties. Jim Bumps made a motion to close the hearing on application 11-084 by Richard Joyal. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission returned to application 11-081 by Fred's Plumbing and Heating, PIN #RT005032D6T, for sit plan approval for a 15 ft by 100 ft maintenance shop/cold storage addition. This property is located at 1683 VT Route 5 and is in the Commercial (COM) zoning district. Because the applicant was not present to explain the request, Dave LaBelle made a motion to table 11-081 by Fred's Plumbing and Heating until 7:00 p.m. September 12, 2011 here in the Municipal building. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Upon a motion by Dave LaBelle and seconded by Richard Del Favero the board went into deliberative session to discuss closed applications.

Upon returning from deliberative session Dave LaBelle made a motion to grant final plat approval for application 11-079 by James Brown as submitted (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion to grant final plat approval for application 11-080 by Tom Cyr & Ginette Provost as submitted (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion to grant final plat approval for application 11-075 by Marjorie Judd as submitted (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

Richard Del Favero made a motion to grant final plat approval for application 11-084 by Richard Joyal as submitted (see attached written decision). Seconded by Jim Bumps. **Ayes – Richard Del Favero, Jim Bumps, Joe Profera. Nays – Dave LaBelle. Approved by a majority decision.**

Other business. The Commission reviewed their mail. The Commission felt that the way lot width is calculated should be reviewed. The Selectboard will be holding a public hearing on bylaw amendments on Oct 3rd.

8:45 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** August 15, 2011**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle, Richard Del Favero.

MEMBERS ABSENT: Cynthia Adams.

OTHERS PRESENT: Will Dodge, Bradley Judd, Marjorie Judd, Lynn Batchelor, Karen Jenne, James Brown, Deborah Brown, Laurent Letourneau, Michael Roger, Robert Cooper, Peter Lind, Robin Smith, Mark Tarbox, Sharon Stratton-Tarbox, Maureen Fountain, Laura Carpenter, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Aug 1) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-074 by Robert Jackson, PIN #TRD04079C3TR3, for preliminary and final plat approval to subdivide his 32 acre lot into 5 lots varying in size from 5 acres to 11 acres. This property is located off the Darling Hill Road on a private R.O.W. and is the Residential Two Acre (R2) zoning district. ZA Bob Kelley stated that the applicant's representative, John Stevens called him late this afternoon and requested he ask the Commission to table the application for 4 weeks to give him time to address the letter from the Fire Chief. Dave LaBelle made a motion to table the hearing on application 11-074 by Robert Jackson until 7:00 p.m. September 12, 2011 here in the Municipal Building. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-075 by Marjorie Judd, PIN #TRD18045C8T, for preliminary and final plat approval to subdivide two 5 acre lots off of a 177 acre parcel. This property is located at 2129 Herrick Road and is the Rural Residential (RR) zoning district. Marjorie & Bradley Judd were present to explain the application. A revised subdivision plat was submitted to the ZA on 8/9/11 after it was discovered that an existing garage did not meet the setback requirement from the proposed lot line on the original plat. The Commission reviewed the revised subdivision plat. Dave LaBelle made a motion to close the hearing on application 11-075 by Marjorie Judd. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission discussed a recent proposed bylaw amendment to the section on Yard Sales. It was decided that they would not proceed forward with this amendment and would leave the number of yard sales per calendar year at 14.

The Commission continued discussion from their last meeting on a request from VELCO for a recommendation to the Public Service Board (PSB) regarding a proposed Wireless Communications Facility at 3557 Nelson Hill Road. Representatives for and against the project spoke at length. The Commission reviewed a draft recommendation the asked the ZA to prepare for them stating that they recommend approval of the project and asking that a power density study be done. They amended the draft to specify that it be a long term (14 days minimum) power density study (see attached draft recommendation). It was a consensus of the Commission that the changes to the draft looked good and they will have it as an agenda item for their next meeting to make their official recommendation.

The Commission discussed switching the night they hold their meetings because of a conflict one member has. No other night worked for all members so they decided to keep their schedule as it

is.

Upon a motion by Richard Del Favero and seconded by Jim Bumps the board went into deliberative session to discuss closed applications.

Upon returning from deliberative session Jim Bumps made a motion to grant site plan approval for application 11-061 by IROC as submitted (see attached written decision). Seconded by Dave LaBelle. **Approved by a unanimous decision.**

Dave LaBelle made a motion to grant application 11-051 by Lormac Corp for reconsideration of conditions of Permit #10-132 to move the vacuum islands. Seconded by Richard Del Favero. Ayes – Dave LaBelle. Nays – Joe Profera, Richard Del Favero, Jim Bumps. **The application is DENIED (see attached written decision).**

The Commission reviewed their mail.

9:50 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned. *The minutes were taken by Bob Kelley*

DERBY PLANNING COMMISSION *MINUTES*** August 1, 2011**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle, Richard Del Favero.

MEMBERS ABSENT: Cynthia Adams.

OTHERS PRESENT: Jennifer Cleveland, Roland Buzzy Roy, Karen Jenne, Mark Tarbox, Bob Cooper, Sharon Stratton-Tarbox, William Simendinger, Jamie Simendinger, David Simendinger, Nancy Olney, Melody Ricard, Andre Ricard, Gary Olney, James Brown, Deborah Brown, William Dodge, Dan Nelson, George Mokarakorn, Kane Smart, Jeff Wright, Meredith Smith, Peter Lind, Dennis Kelley, Jacqueline Molleur, Lynn Batchelor, Mitch Wonson, Perry Hunt, Keith Beadle, Diane Beadle, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to table approval the minutes to the last meeting (June 20). Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-001 by Main Street Place LLC, PIN #MSTD011A6L & MSTD013A6L, for site plan approval to raze the buildings, bring it to grade and plant grass. This property is located at 50 & 58 Main Street, Derby Line and is the Village Commercial/Derby Line zoning district. William, David & Jamie Simendinger were present to explain the request. The Simendingers explained the application. Erosion control, runoff, hazardous materials, access, pedestrian safety, and demolition procedures were among the items discussed. Mitch Wonson represented the Village of Derby Line Trustees and explained their opposition to this project which included; traffic access, character of the area, implementation of the Town Plan, and impact on the watershed. Chris Blais, Perry Hunt, Buzzy Roy, and Dennis Kelley all spoke out in opposition of various aspects of the demolition project. The Commission felt that more information was needed to properly evaluate this project and asked the applicant to provide additional information regarding erosion control, the type of ground cover that will be used after demolition, design of stairs to the Brown's Drug Store building that will be detached from the Caswell building during demolition, and how pedestrian safety will be maintained during demolition. Dave LaBelle made a motion to table the hearing on application 11-001 by Main Street Place LLC until 7:00 p.m. September 12, 2011 here in the Municipal Building. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission continued discussion from their last meeting on a request from VELCO for a recommendation to the Public Service Board (PSB) regarding a proposed Wireless Communications Facility at 3557 Nelson Hill Road. William Dodge, Dan Nelson, George Mokarakorn, Kane Smart, Jeff Wright, Meredith Smith, and Peter Lind were present to answer questions. The reason for the project was explained and a power density study was submitted. The result of the cumulative total was that no area accessible to the general public will exceed 35.8% of the maximum permissible limit. Bob Cooper, Mark Tarbox, Sharon Stratton-Tarbox, and Karen Jenne spoke out against the project due mainly to health concerns. They did not feel the study covered a long enough period of time and would like a longer independent study to be conducted. They would also like the Selectboard to hold a public hearing. No recommendation was made.

Dave LaBelle made a motion to remove the minutes from the table. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion to approve the minutes to the last meeting (July 18) with the correction that he voted against the bylaw amendments. Seconded by Jim Bumps. **Approved by a unanimous decision.**

10:00 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned. *The minutes were taken by Bob Kelley*

DERBY PLANNING COMMISSION *MINUTES*** July 18, 2011 as amended**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle, Cynthia Adams, Richard Del Favero.

MEMBERS ABSENT: None.

OTHERS PRESENT: Colin Soreisa, Karen Jenne, Don Johnson, Robert Roberge, James Brown, Deborah Brown, James Mulkin, Glen Patten, Sharon Stratton Tarbox, Mark Tarbox, Kane Smart, Meredith Smith, George Mokarakorn, Phil White, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (June 20) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Richard Del Favero made a motion to recess the meeting to go into a public hearing for proposed bylaw amendments. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Public Hearing on Bylaw Amendments.

The Commission asked for public input on the 5 proposed changes to the bylaw and reviewed each change.

Yard Sales amendment – There was opposition to this amendment. Karen Jenne said that several people have complained to her and she thought it was too restrictive. She thought that some member of the community rely on yard sales to supplement their income which help to pay their taxes. .

Home Occupation amendment – Very little discussion.

Residential Business or Service amendment – Very little discussion.

Equal Treatment of Housing – Very little discussion.

Zoning district change on Herrick Road amendment – Very little discussion.

Dave LaBelle made a motion to close the public hearing on bylaw amendment and return to their regular meeting. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Cynthia Adams made a motion to recommend to the Selectboard that they approve the following bylaw amendments.

1. To amend §402.3(A)(3) to read as follows:
The home occupation shall be conducted entirely within a minor portion of the livable floor space not to exceed 25% of the livable floor space of the dwelling. ~~Family Care Homes and Private Care Homes~~ Family Child Care Homes shall be explicitly exempt from this criterion. Exterior alteration of the dwelling to indicate its use as a home occupation is prohibited.
2. To amend the first sentence of §402.3(B) Residential Business or Service to read as follows:
In all districts ~~where a conditional use~~, a residential business or service shall require site plan review and shall comply with the following criteria.
3. To amend §401.4 Equal Treatment of Housing to read as follows:
 - A. Except as provided in ~~§4407(6)~~ §4414(1)(E) and (F) of the Act, no zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the Town of Derby, except on the same terms and conditions as conventional housing is excluded.
 - B. No zoning regulation shall have the effect of excluding from the Town of Derby housing to meet the needs of the population as determined in §4382(c) of the Act.

- C. No provision of this Bylaw shall be construed to prevent the establishment of mobile home parks pursuant to VSA T.10 chapter 153.
- ~~D. Except as provided in §4407(2) of the Act, no provision of this Bylaw shall have the effect of excluding for review as a conditional use one dwelling unit constructed within or attached to a primary single family residence located in a district in which single family residences are a permitted or conditional use. These accessory units shall satisfy the following requirements:~~
- ~~1. occupancy is restricted to not more than two persons, one of whom is related by blood, marriage or civil union to the owner of the single family residence, is disabled as defined in VSA T.18 251(2) or is at least fifty five years of age;~~
 - ~~2. floor space shall not exceed thirty percent of the floor space of the existing living area of the single family residence or four hundred square feet, whichever is greater; and~~
 - ~~3. the primary single family residence is occupied by the owner.~~
- D. One accessory dwelling unit is allowed to be located within or appurtenant to an owner-occupied single-family dwelling.**
- 1) An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:**
 - a) The property has sufficient wastewater capacity;**
 - b) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling; and**
 - c) Applicable setback, coverage, and parking requirements specified in the bylaws are met.**
 - 2) Conditional use review is required for one or more of the following that is involved in creation of an accessory dwelling unit:**
 - a) A new accessory structure;**
 - b) An increase in the height or floor area of the existing dwelling; or**
 - c) An increase in the dimensions of the parking areas.**
4. To change the zoning district along a portion of Herrick Road as follows for parcels TRD18013A7T & TRD18013A7T1 from Commercial to Rural Residential and for parcels TRD18015A7T, TRD18017A7T, TRD18019A7T & TRD18021A7T from Residential One-Acre to Rural Residential.

Seconded by Jim Bumps. ~~Approved by a unanimous decision.~~ Ayes – Jim Bumps, Cynthia Adams, Richard Del Favero, Joe Profera. Nays – Dave LaBelle. The motion passes.

Chair Joe Profera read the warning for application 11-051 by Lormac Corp, PIN #NDRT5060F4C1, for reconsideration conditions of Permit #10-132 to move the vacuum islands. This property is located at 3693 US Rte 5 and is in the Commercial zoning district. Mr. Mulkin was present to explain the request. Mr. Mulkin compared the vacuum islands other structures on neighboring properties, such as light poles and fences which he feels are technically the same under the bylaws and they are allowed to be within the setback area. Mr. Mulkin is currently working on landscaping around his sign. The car wash is open 24 hrs a day, but he would be receptive to putting the lights on the vacuum islands on a timer so that they are not on all night long. The islands are inside of the original curbed parking area and were moved to improve traffic flow. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-051 by Lormac Corp. Seconded by Cynthia Adams. Approved by a unanimous decision. The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 11-061 by IROC, PIN #TRD27012F3T, for site plan review to add solar pool heating collectors. This property is located at 400 Quarry Road and is in the Commercial zoning district. Mr. White and Mr. Soreisa were present to explain the request. The solar panels will be used to help heat the swimming pool which needs to be kept at 80 – 81 degrees. IROC estimates they will save approx \$15,000 to \$20,000 in fuel cost annually. There are 6 banks of 12 panels for a total of 72 solar panels in the array. It is located on the north side of the parking lot. The panels could have been installed on the roof of the building without a permit, but structural integrity of the roof, maintenance and efficiency of the panels made the ground location more desirable. Due to financial incentives the panels have already been install and IROC realizes that if this application is denied they will have to remove the panels. There was no testimony from interested parties. Richard Del Favero made a motion to close the hearing on application 11-061 by IROC. Seconded by Jim Bumps. Approved by a unanimous decision. The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission began discussion on a request from VELCO for a recommendation to the Public Service Board (PSB) regarding a proposed Wireless Communications Facility at 3557 Nelson Hill Road. Mr. Smart, Ms. Smith and Mr. Mokarakorn were present to answer questions. This is 1 of 36 statewide projects that VELCO is working on to improve communications. Because this project is going thru the PSB it will not require local permitting or Act 250 review, however the PSB will be reviewing the Act 250 requirements. The proposed tower will be 115 ft tall inside a 40 x 40 fenced area with a 12 x 12 equipment building. A power density study shows that the total combined exposure due to VELCO transceiver equipment will not exceed 4.8% of the maximum permissible limit for General Population/Uncontrolled access. There were health concerns from the Commission and Mr. & Mrs. Tarbox about the total combined exposure due to all the towers in the area. These concerns could not be addressed because the total combined exposure due to all towers is not known. The Commission felt that it should be known what the cumulative exposure from all towers is within FCC regulations before the PSB approves the application. The Commission asked the ZA to draft a recommendation reflecting this for them to review at their next meeting.

The Commission reviewed their mail.

Cynthia Adams announced that she will be resigning from the Commission. Her job requires her to attend the Derby School Board meetings and they are now on the same night as the Planning Commission meetings.

9:30 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** June 20, 2011**

MEMBERS PRESENT: Joe Profera, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Cynthia Adams, Richard Del Favero.

OTHERS PRESENT: Jason Brueck, Bob DeRoehn, ZA Bob Kelley.

7:05 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (June 6) as written. Seconded by Jim Bumps.

Approved by a unanimous decision.

Chair Joe Profera read the warning for application 11-043 by Coutts-Moriarty Camp, PIN #TRD34001H6T, for site plan approval for an 81 ft by 43 ft four season building to be used as a dining hall/group meeting room. This property is located at 490 4-H Road and is in the Rural Residential zoning district. Mr. Brueck & Mr. DeRoehn were present to explain the request. The old dining hall will be torn down, there will be a small apartment in the proposed building, they are in the process of applying for a State wastewater permit, and the VAST trail will have to be relocated. A larger format site plan was submitted and a parking plan was submitted. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-043 by Coutts-Moriarty Camp. Seconded by Jim Bumps. Approved by a unanimous decision. The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

After deliberations Dave LaBelle made a motion to grant site plan approval for application 11-043 by Coutts-Moriarty Camp as submitted. (see attached written decision) Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission reviewed their mail.

7:50 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** June 6, 2011**

MEMBERS PRESENT: Joe Profera, Cynthia Adams, Jim Bumps, Dave LaBelle.

MEMBERS ABSENT: Richard Del Favero.

OTHERS PRESENT: Rick Joyal, Don Johnson, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Cynthia Adams made a motion to approve the minutes to the last meeting (May 23) as written. Seconded by Jim Bumps.

Approved by a unanimous decision.

The Commission began discussion on bylaw amendments. Rick Joyal was present to discuss zoning on his and his brother's property on Herrick Street. Their lots were changed from residential to commercial in 2004 during a major revision of the zoning map. Mr. Joyal was not aware of the change until recently and is requesting that it be changed back to residential. He felt that it was unlikely that this property would be developed commercially and he has an existing State Wastewater permit for a single family dwelling on his lot. It was decided to start the process for a bylaw amendment to change parcels TRD18013A7T & TRD18013A7T1 from COM to RR and to change parcels TRD18015A7T, TRD18017A7T, TRD18019A7T & TRD18021A7T from R1 to RR. Don Johnson was present and accessory dwelling units and RVs were briefly discussed. Mr. Johnson was informed that changes were made at their last meeting that are awaiting a hearing.

The Commission deliberated on application 11-014 by Tony Tanguay, PIN #TRD07014G3T1, for preliminary and final plat approval for a 4 lot subdivision. Dave LaBelle made a motion to grant final plat approval for application 11-014 by Tony Tanguay, PIN #TRD07014G3T1, as per the Overall Lotting Plan L-1 by All Systems Septic Design dated 04/29/11 with the following 4 conditions: 1) A Mylar of the approved plat must be filed with the Town Clerk within 180 days of this decision. 2) The proposed access road must be paved for the first 30 feet from the edge of pavement on Shattuck Hill Road. 3) Prior to development of the approved lots the existing municipal water system must be extended and 2 hydrants installed as per the letter from Fire Chief Craig Ellam dated 4/1/2011, or an alternative fire protection system must be approved in writing by the Fire Chief. 4) A copy of all conditions of this permit must be shown to all purchasers of these lots prior to conveyance. (see attached written decision) Seconded by Jim Bumps. **Approved by a unanimous decision with Cynthia Adams abstaining.**

The Commission discussed an application submitted by Lormac Corp asking that the Commission reconsider the condition on permit #10-132 requiring that the vacuum islands be located a minimum of 25 ft from the front property line. The Commission decided not to invoke VSA Title 24 §4470 and will hold a hearing.

The Commission reviewed their mail.

8:55 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** May 23, 2011**

MEMBERS PRESENT: Joe Profera, Cynthia Adams, Jim Bumps.

MEMBERS ABSENT: Dave LaBelle, Richard Del Favero.

OTHERS PRESENT: ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Jim Bumps made a motion to approve the minutes to the last meeting (May 9) as written. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

The Commission began discussion on bylaw amendments. The following 4 amendments were approved and a hearing will be set.

5. §404 Yard Sales - will be amended to read as follows:

During each calendar year not more than two (2) yard sales a maximum of three (3) consecutive days each may be conducted on a property without a permit. More than two (2) yard sales in a calendar year shall be considered a residential business as defined under §402.3 and shall require a permit. Yard sales, which term shall also include garage sales, tag sales or flea markets, are those sales to the general public of new and used items of personal property conducted upon a lot.

6. §402.3(A)(3) will be amended to read as follows:

The home occupation shall be conducted entirely within a minor portion of the livable floor space not to exceed 25% of the livable floor space of the dwelling. Family Child Care Homes shall be explicitly exempt from this criterion. Exterior alteration of the dwelling to indicate its use as a home occupation is prohibited.

7. §402.3(B) Residential Business or Service – the first sentence will be amended to read as follows:

In all districts a residential business or service shall require site plan review and shall comply with the following criteria:

8. §401.4 Equal Treatment of Housing – will be amended to read as follows:

E. Except as provided in §4414(1)(E) and (F) of the Act, no zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the Town of Derby, except on the same terms and conditions as conventional housing is excluded.

F. No zoning regulation shall have the effect of excluding from the Town of Derby housing to meet the needs of the population as determined in §4382(c) of the Act.

G. No provision of this Bylaw shall be construed to prevent the establishment of mobile home parks pursuant to VSA T.10 chapter 153.

H. One accessory dwelling unit is allowed to be located within or appurtenant to an owner-occupied single-family dwelling.

3) An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

d) The property has sufficient wastewater capacity;

e) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling; and

f) Applicable setback, coverage, and parking requirements specified in the bylaws are met.

4) Conditional use review is required for one or more of the following that is involved in creation of an accessory dwelling unit:

d) A new accessory structure;

e) An increase in the height or floor area of the existing dwelling; or

f) An increase in the dimensions of the parking areas.

The Commission reviewed their mail.

8:50 p.m.: Upon a motion by Cynthia Adams and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley

DERBY PLANNING COMMISSION *MINUTES*** May 9, 2011**

MEMBERS PRESENT: Joe Profera, Dave LaBelle, Jim Bumps, Richard Del Favero.

MEMBERS ABSENT: Cynthia Adams.

OTHERS PRESENT: Mitch Wonson, Tony Tanguay, Jon Anderson, Robin Smith, Joe Gresser, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Apr 11) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Dave LaBelle made a motion to take application #11-001 from the table. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Application 11-001 by Main Street Place LLC, PIN #MSTDL011A6L & MSTDL013A6L, is for site plan approval to raze the buildings, bring it to grade and plant grass. This property is located at 50 & 58 Man Street, Derby Line and is in the Village Commercial/Derby Line zoning district. This application was table from their March 14, 2011 meeting. Mr. Anderson was present for the applicant because the applicant could not be present tonight. He requested that the application be continue in mid July to give the applicant time to get the Commission the information that they have requested. There was much discussion on how to proceed with this application due to the ZBA's decision that the application was improperly warned. Dave LaBelle made a motion to cancel the current hearing for application #11-001. Seconded by Richard Del Favero. **Approved by a unanimous decision.**

After more discussion on how to proceed, it was decided to warn a new hearing sometime in mid July. The applicant will coordinate the date with the ZA.

Dave LaBelle made a motion to take application #11-014 from the table. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Application 11-014 by Tony Tanguay, PIN #TRD07014G3T1, is for preliminary and final plat approval for a 4 lot subdivision. Each lot is proposed to be 2.53 acres. This property is located off Shattuck Hill Road and is in the Commercial zoning district. This application was tabled from the April 11, 2011 meeting. Mr. Tanguay & Mr. Wonson were present to explain the request. A revised subdivision plat was submitted with a 50' x 50' hammerhead at the end of the road. There was much discussion concerning fire protection and the cost associated with installing a waterline. A letter from the Fire Chief dated 4/1/2011 states "the Derby Line Fire Dept can provide adequate fire protection for the proposed sub division off Shattuck Hill Road with the installation of two fire hydrants and a turnaround at the end of the road." The applicant believes he should not be required to install hydrants. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-014 by Tony Tanguay. Seconded by Richard Del Favero. **Approved by a unanimous decision.** The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission reviewed their mail.

8:10 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** April 11, 2011**

MEMBERS PRESENT: Joe Profera, Dave LaBelle, Jim Bumps, Richard Del Favero.

MEMBERS ABSENT: Cynthia Adams.

OTHERS PRESENT: Mitch Wonson, Tony Tanguay, Laura Carpenter, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Mar 28) as written. Seconded by Jim Bumps.

Approved by a unanimous decision.

Chair Joe Profera read the warning for application 11-014 by Tony Tanguay, PIN #TRD07014G3T1, for preliminary and final plat approval for a 4 lot subdivision. Each lot is proposed to be 2.53 acres. This property is located off Shattuck Hill Road and is in the Commercial zoning district. Mr. Tanguay & Mr. Wonson were present to explain the request. Mr. Wonson submitted a letter from the Fire Chief and a copy of an unsigned deed to the abutting property which includes a description of the common right-of-way. The letter from the Fire Chief states "The Derby line Fire Dept can provide adequate fire protection for the proposed sub division off Shattuck Hill Road with the installation of two fire hydrants and a turnaround at the end of the road". The applicant does not feel there is a need to install the hydrants. The closest water main is approx 500 feet from the applicant's property and the cost to install the hydrants is not feasible for such a small project. The access is off of Shattuck Hill Road. It will be gravel and will not connect to Route 5. The applicant plans on installing the road and underground electricity, he does not plan on developing the lots. Act 250 permits will be required when each individual lot is developed as they are all in excess of 1 acre. The hammerhead turnaround at the end of the road encroaches upon the last lot; the right-of-way for this is not depicted on the subdivision plat. There was no testimony from interested parties. Dave LaBelle made a motion to recess the hearing on application 11-014 by Tony Tanguay until 7:00 p.m. May 9, 2011 here in the Municipal building. Seconded by Richard Del Favero. Approved by a unanimous decision.

Reorganize the Commission: Richard Del Favero made a motion to nominate Joe Profera as Chair, Dave LaBelle as Vice-Chair, and Cynthia Adams as Clerk. Seconded by Jim Bumps.

Approved by a unanimous decision.

The Commission reviewed their mail.

Bob Kelley handed out a memo to the Commission outlining his procedures for referring an application to the Commission/Zoning Board. When a decision to refer an application is made the date of the decision to refer will be noted on the application and a copy of the application will be placed in the Chair's mail slot outside the zoning office door. The memo also informed the Commission that they have 10 days from the date an application is received, NOT the date it is referred, to determine if they wish to refuse to hear it as per 24 VSA §4470 and it is the Commission's responsibility to determine this in a timely fashion.

7:35 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** March 28, 2011**

MEMBERS PRESENT: Joe Profera, Dave LaBelle, Jim Bumps.

MEMBERS ABSENT: Richard Del Favero, Cynthia Adams.

OTHERS PRESENT: Doug Spates, Oscar Thayer, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Mar 14) as written. Seconded by Jim Bumps.

Approved by a unanimous decision.

Chair Joe Profera read the warning for application 11-011 by Scott Spates Property Management LLC, PIN #TRD44010I2T, for site plan review to amend permit #09-004 for a Border Patrol Station. Changes include relocating the dog kennels and roofing them, changes in exterior lighting, and to adding a second access drive. This property is located 373 Citizens Road and is in the Commercial/Industrial zoning district. Mr. Spates & Mr. Thayer were present to explain the request. All the changes were made at the Border Patrol's request. Lighting is more energy efficient, but foot candles remain the same. The dog kennels were moved for security reasons and covered for safety reasons. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-011 by Scott Spates Property Management LLC. Seconded by Jim Bumps. Approved by a unanimous decision. The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

After deliberating Dave LaBelle made a motion to grant application 11-011 by Scott Spates Property Management LLC, PIN #TRD44010I2T, to amend permit #09-004 for a Border Patrol Station (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission reviewed their mail.

7:35 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** March 14, 2011**

MEMBERS PRESENT: Joe Profera, Dave LaBelle, Richard Del Favero, Jim Bumps

MEMBERS ABSENT: Cynthia Adams.

OTHERS PRESENT: Bill Simendinger, Roland Roy, Mitch Wonson, Laura Carpenter, Christine Blais, Keith Beadle, W Perry Hunt, Nancy Olney, Melody Ricard, Andre Ricard, Gary Olney, Matthew Houghton, Stephen Wheeler, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Jan 31) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-008 by Evelyn Norcross Vermont Trust, PIN #TRD35013F6T, for preliminary and final plat approval for a 2-lot subdivision. Lot #1 is 17.26 ac and lot #2 is 6.89 ac. This property is located off Derby Pond Road and is in the Shoreland District. Matthew Houghton was present to explain the request. Mr. Del Favero thought that the Village of Derby Center should have been notified of the application because this property is in the source protection area for the village's drinking water. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-008 by Evelyn Norcross Vermont Trust. Seconded by Richard Del Favero. Approved by a unanimous decision. The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Chair Joe Profera read the warning for application 11-009 by Evelyn Norcross Vermont Trust, PIN #TRD35013F6T, for preliminary and final plat approval for a 2-lot subdivision. Lot #1 is 56.41 ac and lot #2 is 18.81 ac. This property is located at 345 Derby Pond Road and is in the Residential Two Acre zoning district. Matthew Houghton was present to explain the request. Mr. Del Favero thought that the Village of Derby Center should have been notified of the application because this property is in the source protection area for the village's drinking water and asked that the ZA check into this. There was no testimony from interested parties. Dave LaBelle made a motion to close the hearing on application 11-009 by Evelyn Norcross Vermont Trust. Seconded by Richard Del Favero. Approved by a unanimous decision. The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

Dave LaBelle made a motion to remove application 11-001 from the table. Seconded by Jim Bumps. Approved by a unanimous decision. Application 11-001 by Main Street Place LLC, PIN #MSTDL011A6L & MSTDL013A6L, is for site plan approval to raze the buildings, bring it to grade and plant grass. This property is located at 50 & 58 Man Street, Derby Line and is in the Village Commercial/Derby Line zoning district. This application was table from their January 31, 2011 meeting. Mr. Simendinger was present to explain the request. He submitted a letter stating that he felt the Village lacked standing to participate. The Village refuted this and the Commission allowed them to participate. The Commission reviewed the submittals received since their last meeting. The location of the silt fence was discussed. Mr. Simendinger amended the site plan by extending the silt fence further to the south along the westerly property boundary. He initialed the change on the site plan. Other issues discussed included what hazardous materials were onsite, how would they be removed, pedestrian safety, traffic control, character of the area, historic status of the buildings, parking, and the proposed demolition process. The following person participated orally at the meeting: Mitch Wonson (agent for the Village of Derby Line Trustees), Chris Blais, Melody Ricard, Roland Roy, and Perry Hunt. The Commission felt that they needed more information in order to make a decision and asked the applicant to submit the following information: 1) Information on the procedure as to how the buildings will be demolished, 2) a copy of the environmental assessment report on the 2

properties, 3) a plan that describes how pedestrian and vehicle safety will be handled during the demolition process, and 4) a community notification plan for the demolition. There was no further testimony from interested parties. Dave LaBelle made a motion to recess the hearing on application 11-001 by Main Street Place LLC until 7:00 pm May 9, 2011 here in the municipal building and that the requested information be submitted by May 2, 2011 so that it may be reviewed prior to the meeting. Seconded by Richard Del Favero. Approved by a unanimous decision.

Dave LaBelle made a motion to grant final plat approval for application 11-008 by Evelyn Norcross Vermont Trust, PIN #TRD35013F6T, for preliminary and final plat approval for a 2-lot subdivision, lot #1 is 17.26 ac and lot #2 is 6.89 ac with the condition that a mylar must be recorded with the Town Clerk within 180 days of this decision (see attached written decision). Seconded by Richard Del Favero. **Approved by a unanimous decision.**

Jim Bumps made a motion to grant final plat approval for application 11-009 by Evelyn Norcross Vermont Trust, PIN #TRD35013F6T, for preliminary and final plat approval for a 2-lot subdivision, lot #1 is 56.41 ac and lot #2 is 18.81 ac, with the condition that a mylar must be recorded with the Town Clerk within 180 days of this decision (see attached written decision). Seconded by Richard Del Favero. **Approved by a unanimous decision.**

The Commission reviewed their mail.

8:50 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION ***MINUTES*** January 31, 2011

MEMBERS PRESENT: Joe Profera, Dave LaBelle, Cynthia Adams, Richard Del Favero, Jim Bumps

MEMBERS ABSENT: None.

OTHERS PRESENT: Bill Simendinger, Roland Roy, Scott Warthin, Mitch Wonson, Keith Beadle, Robin Smith, Laura Carpenter, Gregory Bliss, ZA Bob Kelley.

7:00.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Jan 17) as written. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

Chair Joe Profera read the warning for application 11-001 by Main Street Place LLC, PIN #MSTDL011A6L & MSTDL013A6L, for site plan approval to raze the buildings, bring it to grade and plant grass. This property is located at 50 & 58 Man Street, Derby Line and is in the Village Commercial/Derby Line zoning district. Mr. Simendinger was present to explain the request. The Commission discussed whether or not they should hear the application as per VSA Title 24 section 4470 "Successive appeals; request for reconsideration to an appropriate municipal panel". The Commission decided that they should hear the application and continued on with the hearing. Mr. Simendinger testified that a contractor will be hired for the demolition, the only fill that will be added to the site will be to fill the cellar holes, there is only a small amount of asbestos in the buildings, it will not affect the sidewalks, and after the buildings are demolished the grass will be kept mowed. Some of the issues questioned by the commission included; the demolition method, state regulations, and erosion control methods. Mr. Wonson, representative for the Village of Derby Line Trustees, submitted a letter outlining the position of the Village of Derby Line and went over all the points as to why the application should be denied. Some of his points included; incomplete application, access, character of the area, town plan, and historic nature of the buildings. Brian Smith asked questions concerning a similar application years ago for the Irving station on the other side of the street. There was no further testimony from interested parties. Dave LaBelle made a motion to recess the hearing on application 11-001 by Main Street Place LLC until 7:00 pm March 14, 2011 here in the municipal building. Seconded by Richard Del Favero. Approved by a unanimous decision.

Chair Joe Profera read the warning for application 11-004 by James Mulkin & Fred Oeschger, PIN NDRT5051G4T, for site plan approval to change the use of a portion of the building to a restaurant and to enclose an existing 13 ft by 17.5 ft concrete slab for storage and basement access. This property is located at 4278 US Route 5 and is in the Commercial zoning district. Greg Bliss was present to explain the request. Mr. Bliss will be moving his restaurant from across the street because he needs more seating. Items discussed included lighting, parking, landscaping and interior renovations. There was no testimony from interested parties. Richard Del Favero made a motion to close the hearing on application 11-004 by James Mulkin & Fred Oeschger. Seconded by Cynthia Adams. Approved by a unanimous decision. The applicant was informed that the Commission has 45 days to render a decision and they will be notified when a decision has been made.

The Commission went into deliberative session.

Upon returning from deliberative session Richard Del Favero made a motion to grant site plan approval for application 11-004 by James Mulkin & Fred Oeschger, PIN NDRT5051G4T, to change the use of a portion of the building to a restaurant and to enclose an existing 13 ft by 17.5 ft concrete slab for storage and basement access with the condition that if any additional exterior lighting is to be installed a lighting plan must be submitted to the zoning administrator for approval (see attached written decision). Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission asked the zoning administrator to contact Main Street Place LLC and request that an erosion control plan be submitted for their next meeting.

Dave LaBelle made a motion to recommend to the Selectboard that Bob Kelley be reappointed for another 3-year term as zoning administrator. Seconded by Cynthia Adams. **Approved by a unanimous decision.**

8:55 p.m.: Upon a motion by Dave LaBelle and seconded by Cynthia Adams, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** January 17, 2011**

MEMBERS PRESENT: Jim Bumps, Dave LaBelle, Cynthia Adams.

MEMBERS ABSENT: Joe Profera, Richard Del Favero.

OTHERS PRESENT: Roland Roy, Keith Beadle, Chris Blais, ZA Bob Kelley.

7:05 p.m.: Vice-Chair Dave LaBelle called the meeting to order. Jim Bumps made a motion to approve the minutes to the last meeting (Jan 3) as written. Seconded by Cynthia Adams.
Approved by a unanimous decision.

The Commission began review of the zoning bylaw. The Commission had invited the Derby Line Village Trustees to the meeting to discuss zoning in Derby Line. Derby Line Trustees Roland Roy and Keith Beadle were present. They explained that they would like to keep the village as attractive as they can, they would like a mixture of small businesses in the commercial district, and they would like to keep the residential areas residential. Bob Kelley brought up the concern Clark Curtis discussed at their last meeting regarding being able to rebuild in line with houses on either side. Current zoning maps of Derby Line were reviewed and Bob will send the Trustees the digital files so that they can review them in greater detail. Chris Blais had concerns about residential businesses, tattoo shops and adult bookstores.

8:10 p.m.: Upon a motion by Cynthia Adams and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.

DERBY PLANNING COMMISSION *MINUTES*** January 3, 2011**

MEMBERS PRESENT: Jim Bumps, Dave LaBelle, Joe Profera.

MEMBERS ABSENT: Cynthia Adams, Richard Del Favero.

OTHERS PRESENT: Clark Curtis, ZA Bob Kelley.

7:00 p.m.: Chair Joe Profera called the meeting to order. Dave LaBelle made a motion to approve the minutes to the last meeting (Dec 20) as written. Seconded by Jim Bumps. **Approved by a unanimous decision.**

The Commission began review of the zoning bylaw. Clark Curtis was present and talked about zoning along Main Street in Derby Line. He has purchased a dilapidated property and if he demolishes the building he would have to rebuild further back from the road to meet current setback requirement. He feels that this would not be beneficial to the streetscape because it would be out of line with the other houses in the area. He suggested that it might be a good idea to change the zone from VR1DL to VR2DL. This would allow him to rebuild in line with the other houses. Bob Kelley pointed out that the zoning map of Derby Line looks like a patch work quilt and the whole village should be reviewed. The Commission asked Bob to contact the Village Trustees and invite them to the Commissions next meeting on January 17th. They will be reviewing the zoning in Derby Line and would appreciate the Trustees input.

8:20 p.m.: Upon a motion by Dave LaBelle and seconded by Jim Bumps, the meeting was adjourned.

The minutes were taken by Bob Kelley.