

**PLANNING COMMISSION  
CITY OF WILLOUGHBY  
MAY 28, 2009  
REGULAR MEETING  
MINUTES**

**PRESENT:** R. Hart; B. Fiala; G. Merhar; C. Cox; B. Irvine, Chairman  
**ABSENT:** No one  
**OTHERS:** Mike Lucas, Ass't. Law Director; Jim Sayles, City Engr.;  
Janice Lipscomb, Econ. Devel. Mgr.; Richard Smith, Chief  
Bldg. & Zoning Inspector; Rob't Carr, Ward 4 Councilman,  
Jerry Ranally, Ward 3 Councilman; Eric Barbe, Civil  
Service Commission; News Herald reporter; Betty A.  
Nardelli, Secretary

Chairman Robert Irvine called the regular meeting to order at 8:45 p.m.

**OLD BUSINESS**

None

**MINUTES**

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The minutes of May 14, 2009 were approved as written.

**NEW BUSINESS**

**D.B. MOTORS**  
(Drago Babic)

38151 Airport Pkwy #56

**CUP -**  
**Body work /**  
**Vehicle repair**  
L-I dist.

Drago Babic represented this conditional use permit application. Mr. Babic stated that four people work for him. Mr. Babic said that there are six parking spaces in the garage and three outside. Mr. Babic said that the cars parked outside have dealer plates on them. He is not operating a car sales lot. He owns a car sales lot in Eastlake. Mr. Babic stated that the 38151 Airport property Unit # 56 property is for vehicle repair and body work. Chairman Irvine advised Mr. Babic that he needs to comply with the Fire Code for any flammable material inside of the building. Mr. Babic said that he will not have a dumpster. He will carry his trash away.

The conditions agreed upon are:

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1. Hours of operation:  
8:00 a.m. until 10:00 p.m. 7 days a week.
2. No more than 2 cars are allowed to park overnight.
3. Unlicensed vehicles are not allowed on the lot.
4. A vehicle shall not be allowed to be stored over 1 week.
5. No dumpster is allowed.

A motion was made by Jerry Merhar and seconded by Rick Hart to approve the conditional use permit with the stated conditions.

ROLL CALL: Yeas: R. Hart; B. Fiala; C. Cox  
G. Merhar; B. Irvine  
Nays: None

Motion **CARRIED** **APPROVED**

**MARY ROSE ESTATES**  
(Marla Caserta)

34251 Ridge Rd.

**CUP -**  
40 unit **congreg.**  
**Care fclt'y** (Hud  
202 Apts.)  
C.O. 1135.03(c)(6)  
RMF-LR dist.

Marla Caserta, Architect, and Vanessa Whiting, Attorney, represented this conditional use permit application. Ms. Caserta stated that they want to start construction in August of 2009 and complete in twelve months.

Mike Lucas explained to Rick Hart who questioned how the density was determined. Mr. Lucas said that the 4.22 acres is not used for the density. Mr. Lucas advised Mr. Hart to look at C.O. 1155.07(q) under #1 for the criteria for congregate living facility. The number of beds is used which is 82 from the existing building and 40 from the proposed building for a total of 122 beds. Mr. Lucas stated that it is exclusively beds in terms of the density calculation.

Chuck Cox stated that the existing building was built under the Senior Citizen Multi Family zoning and doesn't remember it ever being congregate living. Mr. Lucas said that there was no definition for congregate living under the old zoning code. The code was amended to include congregate living in 2007.

Mr. Lucas said that the existing building was already a permitted

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use in 1983 when the code was changed in response to Mr. Cox's question regarding why the existing building didn't have to apply for a conditional use permit.

Chuck Cox stated that he is struggling with the project because a lot of things seem not to mean what we expect them to mean. Mr. Cox said that the Comprehensive Plan reflects RMF-LR and now it's congregated living. Mr. Cox stated that the way he reads the Ordinance we should reject plans not consistent with the Comprehensive Plan. Mr. Cox stated that he is not prepared to vote this evening because he needs more time.

Richard Smith explained to Rick Hart how the parking was determined. Because the code doesn't have a specific parking requirement for congregated living use the closest use was chosen which is "nursing homes" under the "Institutional" category under C.O. 1135.03(c). In C.O. 1161.04, parking requirements, 1 parking space per 4 beds is the parking requirement for nursing homes.

Vanessa Whiting, Attorney for Mary Rose Estates, stated that this proposal meets the criteria for a congregated living facility. The issues have been addressed thru the design of the project as well as through the engineering. The Law Director is clear on what ordinances apply to this project. Ms. Vanessa stated that she respectfully asks that Planning Commission apply those laws. Balance what was heard from the community and the rights of the property owners to develop their property.

Mike Lucas summarized, in response to Chairman Irvine's request, the criteria for a conditional use permit congregated living for the Mary Rose Estates.

1. First look at C.O. 1109.05(f)(1) to determine appropriation by the Planning Commission.
2. C.O. 1109.05(f)(2) Basis for denying CUP.
3. C.O. 1155.02 - points considered if appropriate to grant CUP as general CUP.
4. C.O. 1155.03 - specific standards because the proposal is in a residential district. It is in this code that eliminates 35' height requirement and cites institutional buildings and the 60' height.
5. C.O. 1155.07(q) - Because the proposal is congregated living this code is used.

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Mr. Lucas advised Planning Commission to weigh the evidence and make a determination. Mr. Lucas stated that there is a 60 day window from the date of the April 28, 2009 submitted application. Mr. Lucas advised Planning Commission to reference C.O. 1155.02 and C.O. 1155.03 and if not comfortable with the factors they shouldn't vote this evening.

Jerry Merhar and Rick Hart had no objection to Chuck Cox wanting two additional weeks to review the ordinances Mike Lucas said applied to this proposal.

Mr. Lucas stated that if the application extends beyond 60 days the consent to extend it needs the applicant's consent.

Vanessa Whiting stated that they will return in two weeks and requested to be tabled.

Mike Lucas said he will provide the document with the four codes that apply to this proposal to the Planning commission and to the applicant.

A motion was made by Jerry Merhar and seconded by Chuck Cox to table this conditional use permit.

ROLL CALL: Yeas: R. Hart; B. Fiala; G. Merhar; C. Cox;  
B. Irvine  
Nays: None

**MOTION CARRIED: TABLED**

**MARY ROSE ESTATES** 34251 Ridge Rd. **Site/elev/Landscape**  
(Marla Caserta) **plans** - new bldg.  
32,000 sq. ft.  
RMF-LR dist.

Because the conditional use permit application was tabled this item needs to be tabled.

A motion was made by Bob Fiala and seconded by Jerry Merhar to table this site, elevations and landscape plans.

ROLL CALL: Yeas: R. Hart; B. Fiala; G. Merhar; C. Cox;  
B. Irvine  
Nays: None

**MOTION CARRIED: TABLED**

**DISCUSSION**

**ANTHONY ALLEGA INC.  
CEMENT CONTRACTOR**

Pelton Rd.  
P.P.# 27B-39-25,  
26, 29 & 30

**Rezoning - discuss.  
L-I to G-I**  
**Use** = concrete Plant/  
Concrete crushing/  
R/R siding

Anthony Allega represented this discussion. Mr. Allega said that he wants to install a bagging facility for bagging mortar mix and sand. The proposal is not a crusher but an impactor. They will impact clean cement. They will not impact asphalt or debris. This facility will be for their own use for their projects. The site will be buffered.

The proposed site for rezoning is the Pavlik property between the two railroads.

They want to rezone the property from Limited Industrial to General Industrial. Mr. Allega was advised that this would be spot zoning.

The Planning Commission members will visit, at their leisure, the temporary site set up at the Lost Nation ramp.

No action was taken on this discussion and remains on the agenda for the next meeting for more discussion.

There being no further business the regular meeting closed at 9:52 p.m.

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Robert Irvine, Chairman

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Betty A. Nardelli, Secretary