

**PLANNING COMMISSION  
CITY OF WILLOUGHBY  
JULY 9, 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; Robert Carr, Ward 4 Councilman;  
N.H. Reporter; Betty A. Nardelli, Secretary

Chairman Robert Irvine called the regular meeting to order at 7:07 p.m.

**MINUTES**

**June 25, 2009**

The minutes of June 25, 2009 were approved as written

**A motion was made by Jerry Merhar and seconded by Bob Fiala to remove all tabled items from the table for discussion.**

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

Motion **CARRIED** APPROVED TO UNTABLE ALL TABLED ITEMS

**OLD BUSINESS**

**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 of Dorsky Hodgson Parrish Yue, and Vanessa Whiting, Attorney of Roetzel & Andress, represented this conditional use permit application. Ms. Whiting stated that this proposal meets all zoning laws and location and all issues of the Comprehensive Plan.

Chairman Robert Irvine advised the audience that this meeting is not a public hearing. The public hearing was May 28, 2009. Chairman Irvine further advised the audience that Planning Commission will

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examine all factors associated with this proposal using a summary put together by Mike Lucas, Assistant Law Director. Chairman Irvine said that Planning Commission in their debate this evening will follow the criteria factors point by point and how the code applies to this application.

Chairman Irvine read out loud the introduction of the summary from Mike Lucas. Chairman Irvine also read the definition of a conditional use permit under C.O. 1103.03(b)(151) which is allowed with conditions under C.O. 1155 and requires Planning Commission approval in accordance with the standards and procedures of C.O. 1109.05.

Chairman Irvine stated that in this Residential Multi-Family Low-Rise district, a congregate living facility is permitted by conditional use. Mike Lucas read out loud the definition of congregate living under C.O. 1103.03(b)(3). Mr. Lucas stated that there is a different definition for congregate care facility versus congregate living. Mr. Lucas stated that we can only go by the definition that is before us.

Chairman Irvine stated that C.O. 1109.05 details the review and approval procedures for a conditional use permit which is the "General Review Criteria" under Section 1109.05(e) which is to be used for all conditional uses. The "Specific" requirements for a particular use as set forth in Chapter 1155 shall be satisfied by the establishment and operation of the proposed use. Section 1109.05(f) authorizes either the approval or the denial by Planning Commission of the conditional use permit.

In Chapter 1155 is the "General Criteria For All Conditional Uses" regardless of the zoning classification set forth in Section 1155.02 which notes that a conditional use shall be permitted only if the use conforms to standards in addition to any specific conditions, standards and regulations for uses set forth in Sections 1155.03 through 1155.07. The General Criteria in Section 1155.02 is (a) through (l). The Planning Commission will debate each of these standards this evening which are as follows:

(a) **The Conditional use will be harmonious with purpose, intent & basic planning** - Chuck Cox gave the background of this property. The property was originally Senior Citizen Multi-Family in 1983 before any other buildings were there. In 1997 the property was rezoned

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to RMF-LR as part of the Comprehensive Plan. This facilitated the Halle Farm development. Chairman Irvine stated that as a result of the rezoning Congregate Living by conditional use was allowed. Mr. Cox replied that there was no definition in our code for Congregate Living. In 1997 an amendment to the code took place to include a definition. Chairman Irvine said that focusing on "purpose" and "intent" and basic planning objectivity of this code, the code exists in its present form. "Intent" makes it difficult to look objectively at this because the permitted use was changed in this zone in 1997 which may have removed the intent permitting Congregate Living in RMF-LR as a conditional use. Mr. Cox stated that we thought that the existing building was nonconforming and that at that point the development for that parcel was done.

**(b) Conditional use will not endanger public health, safety or general welfare** - Mr. Merhar said that he didn't think anyone would argue that this conditional use would endanger the public health, safety or general welfare of the community. Mr. Merhar said that the concept of senior living and senior apartments is an excellent concept.

**(c) Conditional use will not change character of neighborhood** - Mr. Cox stated that he thinks the conditional use will change the character of the neighborhood. He thought one building was the extent of the property. Putting a second building takes away the character of the neighborhood. He didn't think the intent was for the property to look like Pine Ridge Apartments.

**Chairman Irvine deviated from the general criteria discussion to discuss the elevations plan of the proposed building.**

Marla Caserta presented the proposed building as 4 stories (41'2") high using masonry for the lower portion of the building and stucco or drivet for the upper portion. Ms. Caserta stated that the materials are consistent with the existing building. Mr. Fiala disagreed stating that the existing building is all brick without drivet.

Ms. Caserta said that the new building is on an angle and not close to the existing building to address the concerns of the neighbors in response to Chairman Irvine's question. Chairman Irvine said that if the new building were closer to the existing building parking could be further north putting more distance between the

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building and Beacon Dr. Ms. Caserta responded by explaining that the headlights from the cars would bother the Beacon Dr. residents. Chairman Irvine said that the trees would screen the headlights and asked Ms. Caserta if she would agree to a different configuration in the plan and Ms. Caserta said she would.

(d) **Hours of operation for proposed use** - Chairman Irvine said that the hours of operation are similar to Pine ridge Plaza. The garbage pickup for both properties are at the same time.

(e) **Conditional use not hazardous or disturbing or will not diminish property values in neighborhood** - Chairman Irvine cited a summary of research done for high-density and multi-family homes in the residential areas. Chairman Irvine stated that per his interpretation of the study this development does not diminish property values. Mr. Cox stated that the building will be disruptive to Beacon Rd. residents. Chairman Irvine stated that we have to also consider the property owner's rights to develop his property. Chairman Irvine stated that there's already a mixture of uses in the neighborhood so this proposal doesn't conflict.

(f) **The conditional use will not impede development of surrounding property** - Mr. Cox stated that there is nothing left to develop in the surrounding property so this item won't impact the conditional use.

(g) **Adequate utilities and drainage** - Jim Sayles, City Engineer, said that any new development has to conform to storm water ordinances. The sanitary sewers were installed in 1960. If this development moves forward the applicant will have to participate in any enhancements or capacity problems to the sewer system.

(h) **Ingress/egress on surrounding public streets** - Mr. Sayles said that there is no impact on the current conditions of ingress and egress. Jerry Merhar sated that he visited the site several times and each time he found that every parking space was taken. The Lithuanian staff parks across the street and at the nearby Pine Ridge Plaza.

(i) **The conditional use shall not cause additional impact on public facilities** - In regard to safety forces, Mr. Merhar stated that seniors put more demand on the safety forces.

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(j) **Minimal hardship on conditional use by surrounding permitted uses by right** - Chairman Irvine stated that by his interpretation they'll be some detriment to the proposed project by the surrounding area.

(k) **Parking, driveways and parking aisles in compliance with C.O. 1161** - Richard Smith stated that we don't have a specific requirement for congregated living for parking and that the **applicant suggested that the use resembled a home for the aged.** That is why we are using **1 parking space for every 4 beds.** Per C.O. 1161.04 if a use is not specified Planning Commission shall apply a standard for a specified use which Commission determines to be most similar to proposed use so parking is up to Planning Commission. Rick Hart stated that this is a senior citizen development. It seems worse to go with less parking using nursing homes or convalescence parking requirements. Mr. Smith said that for a **senior citizen development** the standard is **1 space per dwelling unit.** The standard for **homes for the aged** is **1 space per 4 beds.** Jerry Merhar replied that we are looking at healthy residents here. Chairman Irvine then said that we are required to have 122 spaces. Ms. Caserta said that they are adding 40 more units so the site plan shows 43 parking spaces. Mr. Merhar stated that whatever requirement was required prior to this evening now falls under a different category. The current parking has to be re-designated. There are 51 existing space, 43 additional spaces therefore 28 additional spaces are needed. Ms. Caserta responded that more spaces can be added.

(l) **Proposed use shall generate minimum traffic on local street in a residential district** - Chairman Irvine said that a traffic study might be needed. Mr. Sayles stated that both ends of Halle Drive are signaled therefore he doesn't know if another signal is needed. Mr. Sayles said that the timing could be modified. If so, it needs to be done now.

Chairman Irvine stated that of the 12 criteria standards, 4 of them impact the conditional use which are: (a), (c), (e) and (k). In regards to standard (k) Bob Fiala said he is not confident that the applicant can fit 28 more parking spaces on the plan. If they can than they will lose green space.

Chairman Irvine stated that the next section is "specific standards" under C.O. 1155.03 which provides narrower and specific standards for conditional uses in residential districts. There are 4 specific and additional standards for uses located in Residential

Districts.

**Section 1155.03 - Specific Standards for Conditional uses in Residential District -**

- (a) **Supplementary Conditions and Safeguards** - authorizes Planning Commission to prescribe supplementary conditions and safeguards in addition to the requirements in this section to achieve the objectives of Section 1155.02.
- (b) **Conformance with district regulations** - A conditional use shall conform to district regulations. C.O. 1155 shall prevail if there is a difference between the conditional use regulations and the district regulations.
- (c) **Exception to height regulations** - Institutional buildings in a residential district may be erected to a height not exceeding 60' provided the front, side and rear yards shall have a depth equal to not less than 1 ½ the height of the building.
- (d) **Specific Area, width and yard regulations** - The width and yard regulations requirements are in Schedule 1155.04. The supplemental regulations are contained in Section 1155.07 and referenced in Schedule 1155.04.

Mr. Smith in response to Chairman Irvine's question said that per Schedule 1135.03(c)(6) this falls under a congregate living facility. Chairman Irvine stated that Section 1155.07 & 1155.07(q) includes congregate living facility. Chairman Irvine read out loud Section 1157.07(q) Paragraphs (1) thru (6). **Referencing paragraph # (5), Mr. Lucas stated that our code applies exclusively to within the boundaries of the City of Willoughby in regards to the 2,000 feet distance** between a group home and family home or group home for handicapped persons. Mr. Lucas further stated that the proposed building does not apply to the first building in regards to the 2,000 feet distance.

Chairman Irvine's interpretation of the 2,000 feet distance between facilities is to have a diverse population. You don't want to overwhelm an area with one age group.

Vanessa Whiting in response to the debate stated that the proposal is properly zoned with the code. Ms. Whiting stated that she meets the requirements of three points. For the 4<sup>th</sup> point for parking, she

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is open for redesigning the parking lot to enhance the facility. She believes 43 spaces are enough. There are only 40 residents there that own cars. Land banked spaces can be shown on the plans. She doesn't think 122 spaces are needed. Ms. Whiting said that the facility does not have an agreement with the nearby Pine Ridge Plaza to use their parking lot in response to Chairman Irvine's question.

Ms. Whiting stated that they came up with a design of a building that the community will enjoy. Mr. Fiala responded stating that the proposed building is different than the existing one. The use of the materials shows it as a step down of quality.

Being no more discussion Chairman Irvine called for a motion.

A motion was made by Jerry Merhar and seconded by Rick Hart to approve the conditional use permit for 40 units for congregate living for the Mary Rose Estates at 34251 Ridge Rd.

ROLL CALL:       Yeas:       B. Irvine  
                  Nays:       R. Hart; B. Fiala; G. Merhar; C. Cox

Motion **CARRIED**           **DENIED**

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

Marla Caserta, Architect of Dorsky Hodgson Parrish Yue, and Vanessa

Whiting, Attorney of Roetzel & Andress, represented this site, elevations and landscape plans.

Chairman Irvine said that with the conditional use permit being denied the plans should be permanently tabled.

A motion was made by Rick Hart and seconded by Bob Fiala to permanently table the site, elevations and landscape plans for the Mary Rose Estates at 34251 Ridge Rd.

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

Motion **CARRIED**           **PERMANENTLY 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 Allegra represented this discussion for rezoning four parcels on Pelton Rd. from Limited Industrial to General Industrial. The property is located between Pelton Rd. and the railroad.

Mr. Allegra said an agreement was reached on the sale price for 18 acres last week between Mr. Pavlick, the owner, and him.

Mr. Allegra said that they will use the concrete plant only a couple months out of the year.

Jerry Merhar commented that this request for General Industrial zoning would be spot zoning but the property is surrounded by Limited Industrial and Commercial Manufacturing so the rezoning request wouldn't have an impact on the area.

Chairman Irvine advised Mr. Allegra to go forward with filing a rezoning application formally.

No action was taken on this discussion.

There being no further business the regular meeting closed at 9:15 p.m.

\_\_\_\_\_  
Robert Irvine, Chairman

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Betty A. Nardelli, Secretary