Mr McEvoy
#5

Planning and Zoning Commission
City of Derby

Theodore J.Estwan, Jr., Chairman

Steven A. Jalowiec
David J. Rogers
Richard A. Stankye
Albert Misiewicz
Glenn H. Stevens
Raul Sanchez
Anthony Szewczyk, Alt.
Maryanne DeTullio, Clerk

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, January 15, 2013 at 7:00 p.m. in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:10 p.m.by Chairman Ted Estwan. Present were Ted Estwan, Steve Jalowiec, Richard Stankye, Raul Sanchez, Glenn Stevens, Albert Misiewicz and Anthony Szewczyk. Also present were Attorney Joseph Coppola, Corporation Counsel, Ryan McEvoy, Milone and MacBroom and Maryanne DeTullio, Clerk.

Additions, Deletions, Corrections to Agenda

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

Correspondence - None

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

A motion to approve the minutes of the December 18, 2012 meeting was made by Mr. Stankye, seconded by Mr. Misiewicz and carried 5-2 with Mr. Jalowiec and Mr. Szewczyk abstaining.

Acceptance of Applications

Chm. Estwan stated that there were no application to accept.

Public Hearing:

(a) Application from South Central Connecticut Regional Water Authority for Site Plan Review for water tank installation – Mountain Street – Application #2012-12-18-01.

(b) Application from South Central Connecticut Regional Water Authority for Special Exception for rock crusher – Mountain Street – Application #2012-12-18-02.

Mr. Stevens moved to open the public hearing for items 9a and 9b and hear them concurrently. The motion was seconded by Mr. Jalowiec and carried unanimously.

Chm. Estwan noted the receipt of the certified mailings from the applicant. Ted Norris, Vice President of Operations & Engineering at Regional Water Authority stated that they are a non-profit public corporation that was established in 1977. They are a political subdivision of the State of Connecticut and serve approximately 118,000 metered customers in 16 municipalities and owns approximately 27,000 acres. In January, 2008 they acquired Birmingham Utilities. He stated that they are governed by two boards – a Board of Directors and a Representative Policy Board which is comprised of a representative from each of the municipalities in their district plus a representative appointed by the governor. He stated that they are seeking approval of their application for site plan for the construction of a 2,000,000 gallon water storage tank in the City of Derby. They are also seeking approval for a special exception to crush, process and stockpile on site rock that will be removed during the construction of the tank. The proposed site for the tank is on approximately 2.7 acres located west of the end of Mountain Street and Indian Avenue. The land is owned by Summit Hill LLC of Shelton and the Authority has an agreement with them to purchase the property and necessary easements. The agreement is conditioned on receiving all approvals necessary to construct the tank, water main and access road. Mr. Norris stated that access to the tank will be by the construction of a 1340 foot drive beginning at the east end of Summit Street and then proceed generally north to the tank. The 16 inch diameter water main that will serve the tank will begin at Eleventh and Hawkins Streets and will be installed in Eleventh, Hawkins, Fall Street and Emmett Avenue to the south end of the property. The total length of water main is approximately 2,560 feet. Mr. Norris stated that the reasons for the construction of the tank is the need to provide water storage for fire fighting demands, for meeting demands during peak water usage and keeping the system operating during times of emergency, such as water main breaks. He stated that this is a permitted use in all zoning districts in every town in the district but they are not exempt from complying with local zoning regulations. Mr. Norris stated that the project has been approved by the Regional Water Authority Board, the Representative Policy Board and also received approval from the Derby Inland Wetlands Board.

Steve Rupar, Senior Manager of Engineering for the Water Authority stated that this is a very important project and will improve public health, safety and fire protection for 30,000 residents in the Valley area. He stated that they acquired the water system from Birmingham Utilities in 2008 and it is an older system that is supplied well fields along the Housatonic River and the rest of their system in Orange and Woodbridge. He stated that there is not storage in this part of the district. He stated that the system has been relying on two storage tanks one in Orange and one in Woodbridge, which are about 4 ½ miles away. He stated that if there is a break or a major fire, water has to travel that distance to get there and it loses pressure along the way. He stated that the project was approved by the Department of Public Health. He stated that they have done numerous studies and looked at many sites throughout the Valley area. One of the key criteria for the site is that it needs to be west of the Naugatuck River. There are three pipelines that cross the River. The land needs to be at a certain elevation and they need to maintain pressure so the land needs to be above elevation 250. It also has to be near some

large distributing piping and ideally near their demand center. Mr. Rupar stated that a tank acts as a large volume of water in a distribution system. It generally fills slowly during the daytime and it is sized and designed to dump water quickly in an emergency, such as a fire. He stated that they need to preserve pressure to the distribution system above 25 pci in other to prevent what is known as cross connection contamination. Mr. Rupar stated that the benefits of the project would be increased fire protection. Following construction of the tank they would be improving the average fire flow across the service area by about 1250 gallons a minutes. They would be able to maintain pressures above 25 pci while fighting fires and that is important for public health. There would be enough storage on site to fight a major fire which they do not have now. He stated that there have been main failures as this is an older system. They have happened west of the Naugatuck River and if there is a failure the system depressurizes, which affects public health. He stated that Griffin Hospital has been affected in the past by main failures and have had to cancel surgeries.

Brian Robillard, Project Engineer for Regional Water Authority stated that he will be the project manager for this project. The tank will be located at the west end of Mountain Street next to the St. Peter/St. Paul Cemetery on 2.7 acres of land. The tank will measure about 113 feet in diameter and 35 feet high to the top of the tank. It will be built of pre-cast concrete. It is a very strong type construction. He stated that they have nine other tanks in their system that are similar construction. The tank will be very similar to t he tank that they built in 2009 on Grassy Hill Road in Orange. There will be an access road from Summit Street. He stated that there is already a roadway through the woods that will be improved with gravel for construction access. The tank will be connected to the distribution system and this will be by easement along the eastern portion of the site. Mr. Robillard stated that in order to build the tank the site needs to be at a certain elevation and in order to do that 13,000 cubic yards of rock will have to be removed. He stated that after blasting there will be about 17,000 yards of material to deal with and 6,000 cubic yards will be used on site for tank construction. He stated that 11,000 cubic yards will be removed from the site and that will be approximately 750 truck trips. He stated that is one of the reasons for processing the material on site because if it wasn't done on site it would require an additional 800 truck trips. He stated that if they are not allowed to use the crusher on site it would be approximately 1500 truck trips to handle the material. This is a very important aspect of the project. He stated that they understand that truck traffic is a concern of everyone and they are trying to make it as safe as possible. The contractor that they hire will have to hire a city police officer while trucks are in use. They will also require one way truck traffic only and traffic safety inspection reports will have to be submitted. They will also require the contractor to submit safety records from the Department of Motor Vehicles for each driver. The trucking hours will be restricted and they will not be allowed on the roads when school buses are. The maximum speed will be lower than what is posted. He stated that neighbors along the route will have his name and contact information and can contact him with any concerns. The Regional Water Authority has its own police force and can report to them also. Mr. Robillard stated that communication is another important part of the project. He stated that letters were sent out informing neighbors about the project and additional letters wikll be sent before work begins. He stated that pre-blasting surveys will be done and letters will be sent out during the construction. He stated that they know that everyone has a lot of concerns with the blasting.

Sue Shepley from Geosonics stated that they do pre-blast inspections and preparation monitoring. She stated that there are safeguards for protection on homes. The blasters are well educated and there is a lot of government oversight. She stated that the State of Connecticut Fire Marshal would oversee the blasting and the local Fire Marshal gives the permits. Pre-blasting inspections will be offered to homeowners in this case. They will look for defects in the house and document the conditions found during the pre-blasting inspections. Mrs. Shepley stated that there will also be vibration monitoring and they monitor the vibration levels in the ground and the pressure in the air. Mats will be placed on top of the shots and warning horns will sound prior to a shot being set off. She stated that a person can be put on a call list to be called right before a blast. They will offer post blasting surveys. She stated that a lot of work has been done to safeguard and protect houses.

The Commission took a recess at 7:40 p.m. and the meeting resumed at 7:50 p.m.

Mr. Estwan stated a petition has been filed and he wanted to get legal advice on that before moving forward. He stated that during the break a lot of people went to the drawings and talked to the applicant. He stated that any questions asked and answered to or have concerns about are not part of this public record unless you stand and state your name and address the Commission during the public hearing. He stated that anything said during the break is not part of the record and should be restated. He stated that a Petition to Intervene has been received from Sharlene McEvoy and a copy of this petition will be provided to the applicant. He stated that the intervener may introduce by evidence testimony or written with their own experts in a particular field to address the applicant. The applicant will be given the opportunity to respond. He stated that the evidence will be weighed and considered by the Commission from the intervener but it does not disrupt or change the time line of this application. There is still a time line to be followed based on the zoning rules and regulations.

Sharlene McEvoy, 200 Emmett Avenue stated that she owns three properties in the area and is totally opposed to the project. She stated that she felt that because of its intrusive nature it will have a detrimental effect on the quality of life of the residents in the area, the environment and the property values. She stated that she has spoken to many of her neighbors and over 140 people in the immediate area signed a petition opposing this project. She stated that many of her neighbors are elderly and could not attend this public hearing and she is speaking for them. She stated that they are shocked and horrified that Telescope Mountain is going to be denuded of trees, rock is going to be blasted away to build access road and a pipeline to a 2,000,000 water tank that is going to be a carbuncle on the face of the west side of Derby. She stated that lives are going to be disrupted by blasting and truck traffic no matter how much they are going to try and minimize the inconvenience; the people in the area will suffer. She presented photographs of how narrow the roads and asked where the trucks are going to go. She stated not they have not spoken on the direction that the trucks will be going. She stated that they are afraid that their property values are going to decline. She also submitted pictures of the site on Silver Hill Road and Hull Street in Ansonia and suggested that they put the tank at that location. She did not feel that the application should be here and it should be rejected. She stated that this is a disaster for this part of Derby. It will affect the environment. There is a lot of site work that will have to be done in order to put the tank in. She stated that this is going to end up being a sand and gravel operation.

Chm. Estwan read a letter dated 10/17/12 from the Pat Charmel, President of Griffin Hospital in support of this project which indicated that this tank will improve water flows to the area. The letter stated that the Hospital relies on water supply to maintain safe operation of the Hospital.

Chm. Estwan also read a letter dated 12/19/12 from the Derby Fire Marshal which stated that fire apparatus would more than likely not enter the access road to the water tank as there is no turnaround for the apparatus to get back out with backing all the way out. The letter also stated that the only fire protection with this project would be a vehicle fire. The letter also indicated that since blasting is associated with the project that pre-blast surveys be done of the properties within 300 feet of the blast area. Seismograph reading to be taken during all blasting.

Mayor Anthony Staffieri, 17 O'Sullivan Road stated that the storage tank is needed for the Hospital and Fire Department but he felt that this location is one of the worse places to put it on. He stated that he meet with the Birmingham Utilities seven years ago and their prime location was on Silver Hill Road. This location would not be so obtrusive. The trucks going down Summit Street is a real safety issue. He felt that the water tank could be put on Silver Hill Road and the major expense with that location would be the change to the piping. The site is approximately one mile away and a much safer location. He asked the Commission to consider this wisely. He stated that he is very concerned about Summit Street and West Ninth Street and it is too narrow for the truck traffic.

Atty. Keith Ainsworth, Bradley Street, New Haven representing Sharlene McEvoy who is representing her neighborhood and people who could not get to this meeting. He stated that an environmental evaluation of the application was done. He stated that there is a very heavy gravel or rock crushing operation associated with this project. There is another place that this tank could be placed and blasting would not be necessary at that location. He stated that this threatens one of the natural features of Derby which is the rock outcroppings. Atty. Ainsworth stated that this application has 16 regulations that it either violates outright or doesn't meet the spirit of. There are listed in Dr. Danzer's report. He stated that the soil and erosion controls are just minimal. He stated that the rock crushing facility which will produce dust and noise which will be within 100' of neighboring properties. The excessive removal of the rock and trees will have a negative impact on the area. He stated that the Commission should take special notice that there are a number of things that can be done. He stated that the Commission can direct them to look at the alternate location and present evidence of why that location cannot be used. He stated that with the rock crushing operation there will be approximately 11,000 cubic yards left over and the regulations state that the processing of rock for off site uses is only in an industrial zone but with a special permit can be done on site. He stated that they are only using 6,000 cubic year's and the rest is being trucked off and that is use off-site. He stated that in addition they exceed the 25% minimum coverage. He stated that the application is not very well thought out for its impact on the City of Derby. He stated that it is basically what the Water Company needs for its business and its primary customer in the area, The Griffin Hospital. He stated that the Hospital could get a tank on their property which would provide them with an emergency supply. He stated that there is a need for fire safety and public health but there are other options.

Dr. Steven Danzer, Stamford, Connecticut stated that he is a registered soil scientist and did a review of the application. He stated that he submitted his report dated 1/9/13 as part of the record. He stated that the project is more complex than it seems. He stated that it is actually a combination of thee different projects; a road construction project, the elective operation of a rock crushing facility which includes the crushing, processing and stockpiling and the site preparation for the construction of the water tank. He stated that each of these projects have their own merits and their own disadvantages and each deserve special attention during the review process. He stated that the temporary operation of the rock crushing facility is a large concern as far as the environmental impact of this project. He stated that portion of the project should be considered on its own merits. The water tank project will involve site preparation, construction and maintenance of the facility. The largest environmental concern of the project is its location on a steep bedrock hill which will necessitate an enormous amount of ledge to be removed to accommodate desired grades. He stated that the bedrock outcroppings define the hilly ridge system and they are very significant because they provide the hill with its historical context and scenic character. They also have several environmental functions; the area of the project is near the high point of the hill and the area tends to be important and unique habitats for migratory birds and local reptiles. The area moderates the flow of runoff into the neighboring properties and the area has a very robust tree cover which will be removed. The area in its existing form buffers noise and air pollution and the area provides a sense of solitude to the community. The site work will result in the destruction and loss of this environmental feature.

Dr. Danzer stated that the operation of a temporary rock crushing facility will involve a number of activities including the crushing, processing and stockpiling and the additional separation of materials to be permanently relocated off-site. He stated that the location is on a relatively steep slope and there are no proposed grades for that. He also noted that there is a lack of proposed landscape restoration afterward. He stated that the other concern is the potential noise and dust that will be generated from this operation. He stated that in this particular case, the operation is elective and could be located off-site and therefore the need for this operation on site is incidental to the water tank. He stated that the rock processing operation will be in violation of property setbacks and the regulation should be at least 100' feet from the property boundaries. The application creates an opportunity for the applicant to use the site to process rock for off site uses. He stated that the bulk of the material will not be used on site. He stated that the project would best be characterized as a mining operation. He stated that rock crushing operations are loud and dusty and a reason why they are normally in an industrial zone and not a residential zone. The noise and dust effects are expected to be amplified because they are removing all the trees and these impacts could easily be avoided if the separator facility is relocated off-site. He stated that the B Zone is not appropriate for a rock crushing operation. It would not be in harmony with the neighborhood.

He stated that the soil and erosion control plan appears to be a very general plan. There are a lot of erosion hazards with steep slopes and thin highly erodible soils. He felt that the single line of silt fences being proposed are inadequate to prevent erosion. There is no provisions for increase in runoff and the landscaping restoration is also inadequate. He stated that there is a lack of environmental and community sensitivity and they are violating or not fulfilling the spirit of the regulations. The efforts to mitigate the effects are inadequate. There are a lot of mature trees that will be removed and those are not shown on the plans.

Dr. Danzer stated that he looked at the alternate site on Silver Hill Road which is less than a mile away. This property is located on the west side of the Naugatuck River and at a higher elevation than this one. This site is close to the nucleus of their customers and the Commission should require the applicant to demonstrate why they chose this particular site.

Atty. Keith Ainsworth stated that the Commission has sixteen reasons to deny this application and has the discretion to do so. The applicant has not provided sufficient information that it meets the regulations and does not harm the environment. The rock crushing facility is incompatible with the neighborhood.

Kelly Curtis, Fire Commissioner and former employee of Birmingham Utilities, 22 Grandview Boulevard. He stated that he has major concerns for the fire department. He stated that there have been issues at the Hospital because of main breaks. He stated that there is no yield for storage on this side of the river. He stated that they did a study and this is one of the best locations for the tank. There are large water mains in the area. He stated that he understands the concerns with the work and traffic but for fire protection this is is needed. He stated that the Silver Hill Road site has smaller water mains and there are no water mains from the top of Hull Street to the Derby Nursing Home. He stated that this is something that has been needed for a long time. He stated that the Hospital, nursing home, high school and middle school are in this area and the storage tank is needed.

Patricia Valentino, 52 Summit Street stated that everyone in the area will have problems. She asked how many Derby residents this will serve besides the Griffin Hospital. She stated that it may be needed but not in this area. She also asked if they had a list of contractors who will be doing the work on this project.

Jeff Sullivan, 13 Fall Street stated that there is a lot of wildlife in this area which will be impacted by this project. He also stated that the top of Telescope Mountain is an Indian burial ground and there are Indian artifacts and bones there. He stated that the land does not need to be disrupted. He felt that the land should stay untouched and was opposed to the application.

Chris Typosek, 74 Emmett Avenue stated that there will be a lot of noise from the crushing operation. He also noted that this will be located on a steep grade and had concerns with the blasting. He asked how long the blasting will take.

Ron Sill, 73 Grove Avenue stated that there is a need for this tank but this is not the location to put it on. He also stated that the proposed dog park will be right in that area and will be adversely affected by the noise and construction.

Pat Charmel, President, Griffin Hospital, 130 Division Street stated that the letter in support of the project was read into the record. He stated that water main failures in the area have caused a loss of water supply to the Hospital and this is a real serious concern. He also stated that it would not be easy for them to have a storage tank on their property. He stated that there is a concern for patient safety and need to have a reliable water system.

Betty Lally, 172 Emmett Avenue stated that her property is right below the tank location. She stated that there will be health problems because of the dust and noise from the crushing operation. She stated that nothing has been said about protecting the air quality and this is close the nursing home and the middle and high schools. She stated that it is an impossible site and inappropriate for this project. The welfare of the neighborhood should be considered and another site selected.

Roger Birtwell, 8 Third Street stated that no one has any control over the cost of water and the value of this needs to be assessed.

Mary Mutasky, 51 Clearview Court stated that a lot of people at the hearing have concerns with truck traffic and the effects on the wildlife and environment. This appears to be a mining operation.

Carmen DiCenso, 70 Jeanette Drive, Third Ward Alderman stated that there is a need for water but he was concerned about safety of the residents. He stated that there will be a lot of truck traffic and the infrastructure of Summit Street should be looked at. He also felt that they should look at the other site on Silver Hill Road.

Tom Lenart, Fire Chief stated that the City does need increased water flows on that side of town. He stated that there is a serious need for adequate fire protection.

Barbara DeGennaro, 51 Paugassett Road, President Board of Aldermen and also co-owner of property on Summit Street stated that she has concerns with blasting and truck traffic. She stated that when the condominiums were built Summit Street could not be used. She also felt that this will affect property values. She stated that Summit Street is very steep and narrow and the traffic will be devastating for the neighbors. She felt that they should look at the other available site.

Charles DiCenso, 55 Summit Street stated that he has lived there for a long time and there should be no construction traffic allowed on Summit Street. He felt that this project will be unfair to the neighbors and they should look for a more appropriate site.

Claude Blank, 52 Mountain Street stated that there could be more blasting than they anticipate and there is a lot with the project that we do not know about. He was concerned with the effects of the blasting.

Karen Blank, 52 Mountain Street stated that you cannot really see on the plans what is being changed. She stated that her property is very close to the road and the pipeline. She was concerned about the truck traffic and stated that there are a lot of young children in the area. She also felt that this will have a detrimental effect on property values and was also concerned with erosion on her property.

Mark Mozder, 56 Mountain Street stated that the effect on property values is one of his biggest concerns. He also asked what the hours of operation will be when the project will be going on. He felt that the long access road will impact a lot of people and asked if it could go on the other side. He also asked what will happen to the rest of the property that is not being used for this project.

Alyssa Thibault, 67 Summit Street stated that she just recently moved to the neighborhood and was very concerned with the property values and also the blasting and truck traffic.

Glenn Stevens asked how the project bidders will be screened. Mr. Robillard stated that it will be a public bid open to anyone and the bid will have rigid qualifications for the contractrs. They will review the bids and they will have to qualify.

Chm.Estwan asked what the due diligence was by the Water Authority into ruling out other locations. He stated that was one of the big questions that he has. He stated that he understands that there are piping issues but asked about spending the time, energy, effort and money to fix that situation with less disruption to the health, safety and welfare of the surrounding community.

Mr. Robillard stated that it is not solely a distribution system; it is not the size of the pipes. He stated that they do not have any storage on that side of the River and that service area. He stated that when there is a fire the volume of water to help fight that fire and continue to supply their customers is not there. He stated that they did extensive research of other sites. He stated that they hired real estate consultants to look for different sites. He stated that they understand the issues on this site. He stated that they did hydraulic modeling which is very important and that takes into consideration customer demands and the size and quality of pipes. Chm. Estwan asked what ruled out the existing tank site on Silver Hill Road. Mr. Rupar stated that it is a higher elevation and it is actually too high. They would have to pump to the tank and expand the pump station. They would have to reduce pressure from that tank and it would be a question of reliability. Chm. Estwan stated that it can be done but they choose that one is better than other not necessarily one is not good enough. Mr. Rupar stated that there is rock on that site also. Chm. Estwan stated that he would like to see the study that was done and have more detail. Mr. Jalowiec agreed that he would like to see that study. Mr. Stankye asked if they had a comparison study showing Site A against Site B as to what is the good points of each site versus the bad points of each site. A study that will give us concrete information besides just being told that one is better than the other. He stated that he agreed with the Fire Chief and Fire Commissioner that we do have a problem but we also have a big concern with the neighbors and citizens of Derby with the amount of work involved with this site. He stated that when the condos were built Summit Street could not be used because of the truck traffic.

Chm. Estwan stated that someone made a comment as to how did this project get this far. He stated that it is their right and the City has zoning regulations. He stated that it is their right within the regulations to present a plan.

Mr. Jalowiec stated that the Commission needs to see the data and reports of comparison of the sites. He stated that he would like to see better information of why we need to remove that much rock. He stated that part of the tank will be below grade and he would like to know how much will be below grade. He stated that he would like to see some photo simulation of what the tank will look like and what the site will look like before and after.

Mr. Robillard stated that the tank needs to be at that elevation to provide proper pressure. The bottom of tank will be at elevation of 258 and this type of style of tank will be buried. He stated that they are also burying the tank a little bit more on the Summit Street side. He stated that 11,000 cubic yards will be going off-site and not being processed on the site.

Mr. Jalowiec asked if the Water Authority purchasing the whole site and what is going to happen to the site where the access road and pipeline goes. Mr. Norris that they are purchasing only 2.7 acres of the site and the rest will be owned by Summit Hill LLC. Mr. Jalowiec asked if they will have legal easements in place and Mr. Norris stated that they will.

Mr. Robillard stated that they tried to reduce the amount of rock and actually raised the tank higher to reduce the amount of rock.

Chm. Estwan stated that there was a comment made about monitoring and if they go over the limit they back off. He stated that once you go over the limit the damage is done and he asked how they will address that. Mrs. Shepley stated that they will not go over the limit. She stated that they monitor and if someone complains they can reduce the size of the blast.

Mr. Stevens asked if there are any additional pumping stations needed for this site. Mr. Robillard stated that the existing pumping stations will be used.

Chm. Estwan asked what their plans are to rebuild Summit Street because if you run 750 trucks plus there the road will be destroyed. Mr. Norris stated that has not been addressed on the plans but it could be. Mr. Stevens stated that dust control is very important in that area and he asked what methods they will be using. Mr. Robillard stated that the rock crushing operation will take three to four weeks and they crushers ware mobile units. There will be spray bars to cut down on the dust. The contractor will be responsible for dust control and will have a water truck on site to supply water to use for control. Mr. Jalowiec also asked if they will be giving answer to the comments and questions in the environmental reports. Mr. Robillard stated that they will. Mr. Szewczyk stated that with regard to the blasting there could be defects and issues that won't appear right away. Mrs. Shepley stated that they will not be going that deep and there should be any such issues. Mrs. Szewczyk asked what happens to the rock being taken off site. Mr. Robillard stated that is up to the contractor to dispose of.

Mr. Stankye asked if they were going to put a plan together as to who will be responsible for monitoring the site and seismographs that get put into any home. Mrs. Shepley stated that will be done with the cooperation of the blaster and local fire marshal. She stated that the specific location for seismographs are typically done between the shot and the closest structures. Mr. Stevens asked the duration of the blasting and Mr. Robillard stated that it will be three to four weeks.

Mr.Jalowiec asked about the amount of rock that will be crushed and processed. Mr. Robillard stated that 11,000 cubic yards will be trucked off site if they are allowed to crush on site.

Mr. Stankye asked if they looked at other areas for construction traffic. Mr. Robillard stated that they looked at coming up Mountain Street which would be very difficult. They also looked at Coon Hollow Road which would require more blasting and more truck traffic. Mr. Stankye asked if they approach the Cemetery to use that access. Mr. Robillard stated that they are still in discussion with the Church at this time.

The Commission took at recess at 9:55 p.m. and the meeting was resumed at 10:00 p.m.

Chm. Estwan stated that there has been some discrepancies from residents who spoke and several stated that they did not get the mailings. He asked that they submit a list that they used. Mr. Robillard stated that it is part of the application. Chm. Estwan stated that he had a conversation with the applicant, with the petitioner and her attorney that a lot of information was given this evening by experts and all the data will be on file in the Building Department. They can review that and come back to the Commission. A motion to continue the public hearing to the February meeting was made by Mr. Stevens, seconded by Mr. Misiewicz and carried unanimously.

New Business

(a) Application from South Central Connecticut Regional Water Authority for Site Plan Review for water tank installation – Mountain Street – Application #2012-12-18-01.

(b) Application from South Central Connecticut Regional Water Authority for Special Exception for rock crusher – Mountain Street – Application #2012-12-18-02.

Chm. Estwan stated that these items will be tabled since the public hearing is still open.

(c) Request from Singer Village, Brookside Development, LLC, 401 David Humphreys Road for two consecutive ninety (90) day extensions to complete required conditions necessary to file subdivision map.

Chm. Estwan read a letter dated 1/4/13 from Brookside Development asking for two consecutive ninety day extensions to complete required conditions to file subdivision map. Mr. McEvoy stated that they have the approval to do the subdivision and they are allowed to ask for two ninety day extensions to file the maps. They are not prohibited from doing site work. He is asking to extend the time period to file the final mylar at which the lots are then lots of record. Mr. Jalowiec moved to grant one ninety day extension for Singer Village. The motion was seconded by Mr. Stankye and carried unanimously.

Old Business

(a) Discussion and possible action – Application from Buckingham Estates, LLC for 2 lot re-subdivision at 8 Buckingham Road – R-1 Zone – Application #2012-07-17-01.

Mr. Estwan moved that following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby denies the Subdivision Application and Special Exception Application for Buckingham Estates, LLC on property shown on Derby Assessors Map 12-7, Lot 14C. The denial shall be based upon the following documents submitted in support of this application.

1. Application for Approval of Subdivision/Resubdivision.

2. "Drainage Calculations, Resubdivision of Lot 3, Buckingham Road, Derby, Connecticut" prepared by James R. Swift, dated June 12, 2012.

3. Plan entitled "Record Resubdivision Map of Lot 3, The 2000 Simonetti Decedent's Trust, Prepared for John K. Fitzgerald, by John Fanotto, Jr., P.E., L.S., Buckingham Road, Derby, Connecticut", dated June 12, 2012, at a scale of 1"=40'.

4. Plan entitled "Site Development & Grading Plan, Resubdivision of Lot 3, The 2000 Simonetti Descendants Trust, Buckingham Road – Derby, Connecticut", dated June 12, 2012, revised to December 5, 2012, at a scale of 1"=20', prepared by James R. Swift.

5. Plan entitled "Soil and Erosion Control Plan, Resubdivision of Lot 3, The 2000 Simonetti Descendants Trust, Buckingham Road – Derby, Connecticut", dated June 12, 2012, revised to December 5, 2012, at a scale of 1"=20', prepared by James R. Swift.

6. Letter from Derby Fire Marshall to Planning and Zoning Commission dated July 23, 2012.

7. Letter from Robert Looker, Seymour Town Planner, dated July 26, 2012.

8. Letter from VCOG dated September 26, 2012.

9. Packet including excerpts of the Derby Zoning Regulations, and diagrams of the lot width calculation (undated).

10. Letter from Milone and MacBroom, Inc. dated September 4, 2012.

11. Letter from Naugatuck Valley Health District dated December 6, 2012.

Furthermore, the application does not meet the minimum requirements for the promotion of public health, safety, convenience, comfort and general welfare as established in Section 195-3 of the Zoning Regulations for the following reason:

1. The minimum lot width of as required in the Zoning Regulations has not been provided for Lot #3. One of the criteria of lot width requires that the measurement be taken at the minimum front setback, which is interpreted to be at or behind the minimum building setback. The applicant has provided four methods of calculating the lot width, all of which are partially measured in front of the minimum building setback which is not permitted by the Zoning Regulations.

(b) Update on Redevelopment Zone.

There was no update at this time.

Executive Session

(a) Update on Enforcement issues; discussion of pending litigation.

Mr.Estwan stated that there was no need for an Executive Session.

Payment of Bills

Mr. Stankye moved that the following bills from Milone and MacBroom be paid. – Invoice #62367, #62368 and #62369 be paid. The motion was seconded by Mr. Jalowiec and carried unanimously.

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

Respectfully submitted,

Maryanne DeTullio, Clerk

These minutes are subject to the Commission's approval at their next scheduled meeting.