

Planning and Zoning Commission

City of Derby

Members:

Theodore J. Estwan, Jr., Chairman
Steven A. Jalowiec, Vice Chairman
David J. Rogers
Richard A. Stankye
Albert Misiewicz
Glenn H. Stevens
Raul Sanchez
Cynthia Knopick (Alternate)

Planning and Zoning Commission Meeting and Public Hearing **Aldermanic Chambers, City Hall** **1 Elizabeth Street, Derby** **September 18, 2018**

AGENDA:

Call to Order

Chairman Estwan called the meeting to order at 7:00 PM.

1. Pledge of Allegiance

Chairman Estwan led the Pledge of Allegiance.

2. Roll Call

Members present were Ted Estwan, Jr., David Rogers, Richard Stankye, Raul Sanchez, Cynthia Knopick, and Albert Misiewicz. Steven Jalowiec and Glenn Stevens were absent.

3. Additions, Deletions, Corrections to the Agenda

No changes were made.

4. Correspondence

No correspondence was received.

5. Public Portion

No one from the public spoke.

6. Approval of Minutes 8/21/18 Regular Meeting

Motion to approve by Mr. Roger, seconded by Mr. Misiewicz and the motion carried.

Approval of the Minutes 9/6/18 Special Meeting

Motion to approve by Mr. Rogers, seconded by Mr. Stankye and the motion carried. Mr. Misiewicz abstained.

7. Receipt of Applications – Application from Custom & Classic Paint, LLC for 1 Park Avenue for use as a Classic Auto Restoration facility in the MDD Zone.

It is not a public repair facility. The business is a machine shop for classic vehicles.

Mr. Estwan motioned to accept receipt of the application. Mr. Stankye seconded and the motion carried.

8. Public Hearings

A. Red Raider Derby, LLC, 40-60 Pershing Drive: Special Exception Application and parking reduction. Discussion and possible action for an additional pad for a food service establishment with a drive thru and reduction in parking requirements on land zoned Business-1. (Continued).

Attorney Thomas continued his presentation to address the concerns presented a previous meeting.



*Received into
record 9/18/18 -*

September 18, 2018

Mr. Ryan McEvoy, PE
Lead Project Engineer, Civil
Milone & Mac Broom, Inc.
99 Realty Drive
Cheshire, CT 06410

RE: Peak Parking Demand
Red Raider Shopping Center Expansion
Route 727 (Pershing Drive)
City of Derby

Dear Mr. McEvoy:

In your September 11, 2018 letter to Chairman Estwan, you requested we provide documentation from the Institute of Transportation engineers (ITE) regarding the peak parking demand of the proposed use (coffee shop) relative to the existing uses on the parcel.

The question is usually in two parts: what is the peak parking demand, and when does it occur? Many municipal codes have specific allowances for "shared parking" for different land uses if their peak times do not overlap. Simply stated, a site consisting of two land uses with peak parking demands of 50 parking spaces each may not need 100 spaces if the parking peak periods do not overlap.

The most relevant references in this area are "Parking Generation" 4th Edition, published by the Institute of Transportation Engineers (ITE) and "Shared Parking" 2nd Edition, published by the Urban Land Institute (ULI).

This project consists of construction of a 1,994± square foot coffee shop with drive through. The most prominent nearby land use that it might share parking with is Planet Fitness. There is data in "Shared Parking" that indicated the peak parking demand for health clubs occurs sometime between 5PM and 7PM on both weekdays and weekends. Their recommended parking ratio is 7 spaces per 1000 square feet. There is no information in "Shared Parking" for coffee shops.

If one consults "Parking Generation", the peak parking demand for health/fitness clubs again occurs between 5PM and 7PM on weekdays, but between 10AM and noon on Saturdays. "Parking Generation" does not make recommendations on parking ratios, but the 85th percentile demand was found to be about 8.5 spaces per 1000 square feet. Looking at coffee/donut shop with drive through, the peak demand is between 7AM and 9AM, and again between 11 AM and 2 PM on weekdays. The 85th percentile demand was 19 spaces per 1000 square feet. There is no weekend data.

355 Research Parkway Meriden, CT 06450 Tel.(203) 630-1406 Fax (203) 630-2615 Toll Free (800) 301-3077

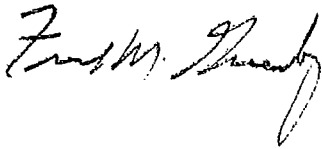
Architecture • Engineering • Planning • Landscape Architecture • Land Surveying • Environmental Sciences

Mr. Ryan McIvoy
Page 2 of 2

While it seems impossible to definitively determine overall peak parking demand with the available data, it is highly likely the two primary land uses of interest, fitness center and coffee shop, will not have overlapping parking demands. Most of the secondary uses, like Jersey Mikes and Wayback Burgers would not even be open during the early morning hours when the coffee shop appears to be most active.

Should you have any questions, please feel free to contact me.

Very Truly Yours,
BL COMPANIES

A handwritten signature in black ink, appearing to read "Fred M. Greenberg". The signature is fluid and cursive, with a large, stylized initial "F" and a long, sweeping underline.

Fred M. Greenberg, P.E.

t-ltr-MM-derby-06C1753l.docx

John Schmidt of BL Companies gave an updated presentation with the layout changes.

Mr. Estwan asked Mr. Sarmiento about the dumpsters. Mr. Sarmiento stated that 27 parking spots were obstructed. This issue will be resolved within the next few weeks.

Mr. McEvoy stated that he agrees with the figures and letter presented by BL Companies. He stated that he preferred the Sk-3 alignment with the crosswalk at the back of the building. John stated they don't have a preference as the walking distance is equal and having the crosswalk in the back is fine with them.

No one from the public spoke. Mr. Estwan motioned to close the public hearing. Mr. Roger seconded and the motion carried.

B. Application for a zone text change, Section 195-16 (A) to create the Derby Development District Zone by THC, LLC (Continued).

Attorney Thomas spoke regarding the application. He explained that this is a zone text change and isn't site specific. He explained the flexibility it provides for the commission.

Mr. McEvoy reviewed the application and it follows a development format similar in other towns. He feels some language needs to be defined. For example "close proximity" should be more narrowly defined. He also 60,000 sq feet is too small. There are a number of properties in Derby that would meet that threshold. Something a little larger would be more appropriate, 100,000 or 3 acres. The applicant should provide the land use analysis; the commission should not have to absorb the cost or responsibility.

Mr. Estwan would like to increase the square footage and see what properties this could apply to. Attorney Thomas stated that this is not meant to be used in residential areas.

This zone change isn't an automatic right. It just allows someone to present a plan to the commission.

Mr. Estwan spoke about 3.d. The understanding was that they can't expand a non-conforming pre-existing. Attorney Thomas said the applicant would be giving up their 8-2 right for legal nonconformity. Mr. Misiewicz stated that it would be conforming with the PDD zone change that was approved. Attorney Thomas stated that is accurate.

STAFF REFERRAL REPORT

TO: Planning & Zoning Commission, CEO, and Planning Consultant for Derby, South Central Connecticut Council of Governments (SCCOG) and Naugatuck Valley Council of Governments (NVCOG) Regional Planning Commission (RPC) representatives
FROM: Joanna B. Rogalski, Regional Planner, NVCOG, 49 Leavenworth Street, Suite 303, Waterbury (203-757-0535)
DATE: September 5, 2018

FILE NO.: DERB-49-073118-Z
MUNICIPALITY: Derby
DATE RECEIVED: July 31, 2018
TYPE OF REFERRAL: Zoning

DESCRIPTION OF PROPOSAL:

The T.H.C. The Hops Company, LLC is proposing a text change to the City of Derby Zoning Regulations for Development District Zoning to permit the Derby Planning & Zoning Commission to better address adaptive reuse, nonconforming uses and uses that are not easily addressed within established districts over multiple parcels. The proposed text amendment would create Section 195-16(A) Derby Development District (DDD). The DDD would promote adaptive reuse in areas where existing commercial uses or transitional areas where residential and commercial uses are in close proximity.

STAFF RECOMMENDATION:

Staff finds the proposed zoning text changes to be not regionally significant with minimal inter-municipal impact.

* * * * *

This staff recommendation is transmitted as written above unless we receive comments or objections within five days of the time you receive this proposal. If objections cannot be resolved within the scope of the original recommendations, you may submit a reconsideration request to the Regional Planning Commission for further discussion of the findings.

DERB-49-073118-Z

**SOUTH CENTRAL CONNECTICUT
Regional Planning Commission**

August 14, 2018

**RPC
Representatives**

Bethany:
Michael Calhoun

Branford:
Charles Andres

East Haven:
Sal Brancati

Guilford:
Matthew Yorzinski

Hamden:
Robert Roscow

Madison:
Joel Miller

Meriden:
David White

Milford:
Jim Quish

New Haven:
Ernest Pagan

North Branford:
Frances Lescovich

North Haven:
James Giullietti

Orange:
Ralph Aschettino

Wallingford:
Jeff Kohan

West Haven:
Kathleen Hendricks

Woodbridge:
Andrew Skolnick

Ryan McEvoy
Milone and MacBroom
99 Realty Drive
Cheshire, CT 06410

**Re: City of Derby: Proposed Zoning Regulation Amendment to Section 195-16(A)
to create a Derby Development District (DDD)**

Dear Mr. McEvoy:

Thank you for sharing the proposed Zoning Regulation Amendments. The Regional Planning Commission (RPC) reviewed the proposal at its meeting on Thursday, August 9, 2018.

By resolution, the RPC has determined that the proposed zoning regulation amendment does not appear to cause any negative inter-municipal impacts to the towns in the South Central Region nor do there appear to be any impacts to the habitat or ecosystem of the Long Island Sound.

Please contact us if you have any questions. Again, we appreciate your referring this matter to us.

Sincerely,

David White (E.L.)

David White
Chairman, Regional Planning Commission

127 Washington Avenue, 4th Floor West, North Haven, CT 06473

www.scrcong.org T (203) 234-7555 F (203) 234-9850 elivshits@scrcong.org

Sarah Cassi- 7 Harold Avenue. She asked if there is a DDD zone in derby. Mr. Estwan stated no. She asked if Attorney Thomas created this new zone with THC in mind. Why do they need a DDD zone? She is concerned that they are going to expand. She heard they are going to put parcels together.

Charles Willinger, an attorney who represents 25 citizens in Derby who live in the area and own residential property. His clients oppose the DDD. They have been in discussions with Attorney Thomas. They believe there is a chance within the next week or two they will be able to resolve their differences. He asked that since this has been on the agenda for months can they continue this hearing and if this doesn't get resolved then they can come back to voice their concerns. Mr. Estwan stated that they will not be closing this tonight and it will be ongoing. It was stated that this began on 9/6 and they can only continue for 65 days; therefore, the applicant would need to ask for an extension. Attorney Thomas stated that he would like a special meeting held in the first week of October and then an extension would not be needed.

Boguslaw Tomczak of 18 Albert Avenue – spoke about parking on her street. She can't park there because she gets a ticket parking in front of her own house. Maybe the signs could say parking for residents only. They are continually cleaning the mess on their property left behind from the patrons of THC. Mr. Estwan stated that the Commission has zero control over the parking issues. He advised her to speak with the police department and the zone change won't affect her current issues. She is also concerned about the pedestrian traffic on Marshall Lane as there are no sidewalks.

Anthony Delprete - 153 Harold Avenue – feels lighting needs to be added. The road isn't wide enough for all the people walking. He asked how they could get more information on sidewalks and grants.

Mr. Ponzillo - 32 Belleview Drive – on Friday and Saturdays there is more traffic than the roads can handle. Big Y is already going to bring more traffic. He is concerned about pedestrians being hit. How is the safety aspect going to be handled? Mr. Estwan stated that the LTA handles the traffic issues, stop signs, markings, lights, etc. Mr. Ponzillo said these are things that the PZC needs to consider before the zone change is approved.

Dan Cortigiano - 12 Marshall Lane – spoke about the upper parking lot on Marshall Lane. People walk down Marshall Lane in the dark and walk in the street. He is concerned someone is going to get hit by a car.

Tom Lionetti – 79 Sunset Drive – He's against the zone change. He feels THC is going to automatically expand and just like when they had the hearing for Marshall Manor - the public opinion meant nothing. Mr. Estwan asked if he had encountered any problems with 101 Marshall Lane. Mr. Lionetti feels the Board is going to do whatever they want.

Mike Niedbala - 33 Belleview Drive. Stated that he moved here 8 years ago and now its stressful keeping an eye on his kids with all the people and activity at THC. He also wanted to know how this impacts the value of his home.

Frank of 7 Harold Avenue – Asked if there was a noise level they are allowed at certain times or an ordinance on noise levels.

Karen Kemmesies of 25 John Street. Asked if the questions from Mr. McEvoy would be resolved and discussed in two weeks at the special meeting. They are worried about noise and traffic. They want limitations. There is also concern with why so many meetings need to be held as it's inconvenient for the residents to have to keep coming out. Mr. Estwan stated they have so many meetings because they need more time to discuss the issue. It impacts a lot of people and they want to make sure they have all the information needed.

Mirosław Kosiorowski of 26 Marshall Lane. He used to believe he had a good piece of property. He has to pay the same taxes as someone who gets to live in a nice quiet neighborhood. He stated that the music is very loud.

Rosaire Cayer of 11 Bellevue Drive – he doesn't think the zone change will benefit the town and he has concerns with parking.

Mr. Ponzillo – said that 101 Marshall Lane isn't a problem yet because they have only been open for 2 weeks. They can't compare it now to when they have full capacity. Mr. Estwan said he didn't ask for a comparison. He only asked if he had any issues with 101 Marshall Lane yet.

Attorney Thomas - stated again that this is not a site specific zone change. Standards for DDD are broad for a reason. It gives the P&Z discretion. The concerns discussed tonight would still be addressed once THC made a site specific application. With regard to the Bellevue parcel at the end - that parcel is an industrial zone, and again this is not a right application. The Board has the right to say no to any DDD applications. There are 91 development districts in the city of Shelton and they have not raised taxes in 7 years. Development doesn't automatically mean higher taxes.

A resident of 11 Albert Avenue stated she wants the Big Y and they want business in Derby, but not something that will cost their residential area.

Mr. Ponzillo – is the city going to get any additional revenue. Is this going to have a positive or negative impact?

It was stated that this is just a proposal to change the text. Nothing can happen anywhere in the City of Derby until this is adopted in some way. No site specific application can be reviewed until then.

Mr. Ponzillo said the Commission needs to take their concerns seriously as it impacts the residents 24/7.

Karen Kemmesies – Said they are just speaking as residents and want a positive economic impact. She asked that the residents in place be protected.

Mr. Estwan motioned to continue the public hearing on October 2nd. Mr. Rogers seconded and the motion carried.

9. New Business

- A. Discussion and possible action on the Red Raider Derby, LLC, 40-60 Pershing Drive: Public hearing for a Special Exception Application and parking reduction. Discussion and possible action for an additional pad for a food service establishment with a drive thru and reduction in parking requirements on land zoned Business-1.**

Motioned to approve as stated below by Mr. Estwan, seconded by Mr. Stankye and the motion carried with all in favor.

*CITY OF DERBY – PLANNING & ZONING COMMISSION
September 18, 2018*

*Application: Special Exception Use and Site Plan Approval
Red Raider Derby, LLC. – Proposed Coffee Shop with a Drive-Through Window and
Parking Reduction
40-60 Pershing Drive
Assessors Map 7-10&12, Lot 17*

Pursuant to Section 195-48, the Derby Planning & Zoning Commission finds the following:

- 1) The application and supporting documentation as presented is in accordance with Sections 195-48 (subsections A through E)*
- 2) The application proposes to construction an additional pad site in current parking areas for a coffee shop with a drive-through window.*
- 3) The applicant's engineer has produced documentation demonstrating that there will be no increases in runoff and is therefore in compliance with the Derby Zoning Regulations.*
- 4) The site plan improvements contain a detailed sediment and erosion control plan that is in compliance with the Derby Zoning Regulations*
- 5) In accordance with Section 154-54.B.(6), the intent of Article VII of the Zoning Regulations is satisfied with the proposed reduction in the required number of parking spaces.*

Therefore, following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Application for Special Exception for the City of Derby on property shown on Derby Assessors Map 7-10&12, Lot 17 subject to the following conditions:

The approval shall be based upon the following documents submitted in support of this application:

- 1. Derby Planning and Zoning Commission Application for Special Exception Use with a copy of the fee check*
- 2. Letter from Cohen and Thomas Attorneys to Planning and Zoning Commission, Town of Derby, dated November 6, 2017*
- 3. Town of Derby, Connecticut, Geographic Information System (GIS) Property Map with a list of 150-foot abutters, printed July 11, 2018*
- 4. Prototype floor and elevation plans for the coffee shop dated January 17, 2017*
- 5. Plans entitled "Land Development Plans, for Amendment to Existing Special Exception Permit, 40-60 Pershing Drive, Derby, Connecticut," prepared by BL Companies, dated July 3, 2018 (unless otherwise noted), revised to August 31, 2018, with the following plans attached:*
 - a. "Sheet AL-1 (1 of 2), ALTA/NSPS Land Title Survey," drawn at a scale of 1"=30', dated July 12, 2017*
 - b. "Sheet AL-1 (2 of 2), ALTA/NSPS Land Title Survey," drawn at a scale of 1"=30', dated July 12, 2017*
 - c. "Sheet OP-1, Overall Site Plan," drawn at a scale of 1"=40'*
 - d. "Sheet SP-1, Site Plan," drawn at a scale of 1"=20'*
 - e. "Sheet GD-1, Grading and Drainage Plan," drawn at a scale of 1"=20'*
 - f. "Sheet SU-1, Site Utilities Plan," drawn at a scale of 1"=20'*
 - g. "Sheet EC-1, Sediment and Erosion Control Plan," drawn at a scale of 1"=20'*
 - h. "Sheet EC-2, Sediment and Erosion Control Notes"*
 - i. "Sheet EC-3, Sediment and Erosion Control Details," not drawn to scale*
 - j. "Sheet LL-1, Landscape Plan," drawn at a scale of 1"=20'*
 - k. "Sheet LL-2, Landscape Details," not drawn to scale*
 - l. "Sheet GN-1, General Notes"*
 - m. "Sheet DN-1, Details," not drawn to scale*
 - n. "Sheet DN-2, Details," not drawn to scale*
 - o. "Sheet DN-3, Details," not drawn to scale*
 - p. "Sheet DN-4, Details," not drawn to scale*
- 6. Letter from BL Companies regarding Special Exception Permit, Stormwater Management*
- 7. Review letter from Milone and MacBroom, Inc., dated August 14, 2018, and September 10, 2018*
- 8. Letter from BL Companies regarding response to review letter from Milone and MacBroom, dated August 31, 2018*

9. Report entitled "Traffic Impact Study, Coffee Shop, Pershing Drive at Division Street", dated August 2018, prepared by BL Companies
10. Undated photos of the parking lot
11. Plan entitled "Truck Turning Plan, Sheet TT-1", dated: July 13, 2018, revised to: August 31, 2018, prepared by: BL Companies
12. Plan entitled "Sketch Plan, Sheet SK-2", dated July 13, 2018, revised to: September 12, 2018, prepared by: BL Companies
13. Plan entitled "Sketch Plan, Sheet SK-3", dated July 13, 2018, revised to: September 12, 2018, prepared by: BL Companies
14. Letter from BL Companies regarding Peak Parking Demand, dated September 18, 2018
15. Testimony from the applicant, City staff and the Commission at the Public Hearings held on August 21, 2018 and September 19, 2018.

With the following stipulated conditions:

1. The Special Exception approval shall not be effective until it is filed on the Derby Land Records along with any conditions in accordance with the General Statutes of the State of Connecticut.
2. The applicants engineer shall contact the Office of the State Traffic Administration (OSTA) to determine if OSTA approval is required for any of the proposed site plan improvements. No building permits shall be issued until OSTA has confirmed that no approvals are needed or any approvals that may be required have been granted.
3. The applicant shall submit a site plan incorporating the crosswalks as shown on sheet SK-3.
4. The applicant shall submit a site plan for staff review of the construction phasing plan as it pertains to construction limits, site drainage, sediment and erosion control, temporary signage, and lane closers, etc.
5. A performance bond in an amount and form acceptable to the City Engineer and Corporation Counsel shall be posted prior to any construction activities associated with the site. The amount of the bond shall cover the Sediment and Erosion Control measures including the establishment of topsoil and seed for all proposed disturbed areas in the event that building and parking lot improvements are not completed in a timely manner after the site has been disturbed.
6. The Zoning Enforcement Officer and City Engineer shall have the authority to direct the applicant, to install additional sediment and erosion control measures as conditions may warrant.
7. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.
8. The Building Official shall not issue any building or zoning permits on the lots until the City Finance Director has verified that all fees have been paid in accordance with City of Derby Ordinance Section 85-3.

B. Discussion and possible action on the Application for a zone text change, Section 195-16(A) to create the Derby Development District Zone by THC, LLC.

Continued – No action.

C. The Derby Board of Aldermen/Alderwomen are seeking a CGS 8-24 referral from the Derby Planning and Zoning Commission to authorize Regional Water Authority to construct a water tank on property that is adjacent to the high school and identified as 9-6-2 and to construct a municipal parking lot on property identified as 9-8-4.

Motion to send a positive referral by Mr. Estwan, Mr. Rogers seconded and the motion carried.

10. Payment of Bills

Mr. Stankye motioned to approve payment as appropriate, Mr. Sanchez seconded and the motion carried.

Invoice**MILONE & MACBROOM**

99 Realty Drive
Cheshire, CT 06410
203.271.1773
ap@mmlinc.com

Salvatore Coppola
City of Derby - Planning & Zoning
1 Elizabeth Street
Derby, CT 06418

September 12, 2018
Invoice No: 87245

Project Manager Ryan McEvoy

Project 1563-02 Pershing Drive - General - Derby, CT

Professional Services for the Period: August 01, 2018 to August 31, 2018

Billing Group -11 Special Exception Review - Rad Raider Derby, LLC - 40-60 Pershing Drive

Services Rendered: Review of site plans and traffic impact report.

Professional Personnel

	Hours	Rate	Amount
Licensed Professional/Specialist	3.25	160.00	520.00
Engineer/Designer/Planner	4.00	120.00	480.00
Lead Licensed Professional/Specialist	7.50	170.00	1,275.00
Totals	14.75		2,275.00
Total Labor			2,275.00

Billing Group Total \$2,275.00

Total Project Invoice Amount \$2,275.00

Outstanding Invoices

Number	Date	Balance
86817	8/8/2018	255.00
Total		255.00

Invoice**MILONE & MACBROOM**

99 Realty Drive
Cheshire, CT 06410
203.271.1773
ap@mminc.com

Salvatore Coppola
City of Derby - Planning & Zoning
1 Elizabeth Street
Derby, CT 06418

September 12, 2018
Invoice No: 87249

Project Manager Ryan McEvoy

Project 1563-23 Planning & Zoning - Derby, CT

Professional Services for the Period: August 01, 2018 to August 31, 2018

Billing Group -1 General Consultation & Admin.

Services Rendered: Prepare for and attend July P&Z meetings on 8/21.

Professional Personnel

	Hours	Rate	Amount
Lead Licensed Professional/Specialist	3.50	170.00	595.00
Totals	3.50		595.00
Total Labor			595.00

Reimbursable Expenses

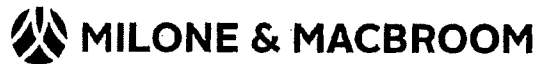
Project-Auto Expense	21.80
Total Reimbursables	21.80

Billing Group Total \$616.80

Total Project Invoice Amount \$616.80

Outstanding Invoices

Number	Date	Balance
86418	7/11/2018	1,199.30
86836	8/8/2018	1,403.60
Total		2,602.90

Invoice

99 Realty Drive
Cheshire, CT 06410
203.271.1773
ap@mminc.com

Salvatore Coppola
City of Derby - Planning & Zoning
1 Elizabeth Street
Derby, CT 06418

September 12, 2018
Invoice No: 87254

Project Manager Ryan McEvoy

Project 1563-45 Sodom Lane-General-Derby, CT

Professional Services for the Period: August 01, 2018 to August 31, 2018

Billing Group -8 Zone Text Change - 77 Sodom Lane The Hops Company

Services Rendered: Continue application review.

Professional Personnel

	Hours	Rate	Amount
Principal	1.50	230.00	345.00
Lead Licensed Professional/Specialist	1.50	170.00	255.00
Totals	3.00		600.00
Total Labor			600.00

Billing Group Total \$600.00

Total Project Invoice Amount \$600.00

Outstanding Invoices

Number	Date	Balance
86818	8/8/2018	425.00
Total		425.00

11. Adjournment

Mr. Estwan motioned to adjourn at 9:00. Mr. Rogers seconded and the motion carried.

Respectfully submitted,

Terri Kuskowski

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