

# ***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

Cynthia Knopick (Alternate)

Maryanne DeTullio, Clerk

The regular meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, May 16, 2017 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, David Rogers, Richard Stankye, Steven Jalowiec, Raul Sanchez, Albert Misiewicz, Glenn Stevens, and Cynthia Knopick. Also present were Atty. Marjorie Shansky, Ryan McEvoy, Milone and MacBroom, Leslie Creane, Economic Development Director, and Maryanne DeTullio, Clerk.

## **Additions, Deletions, Corrections to Agenda**

Mr. Estwan moved to add application for site plan review for barber shop and convenience store at 19 Derby Avenue. The motion was seconded by Mr. Misiewicz and carried unanimously.

Mr. Estwan moved to add application for furniture restoration shop at 326 Derby Avenue. The motion was seconded by Mr. Stevens and carried unanimously.

Mr. Estwan moved to add as item 10f discussion and possible action definition food trucks. The motion was seconded by Mr. Stevens and carried unanimously.

## **Correspondence**

Mr. Estwan stated that an appeal was taken on the approval for the animal hospital on Sodom Lane. He stated that the appeal was denied.

## **Public Portion**

Richard Dziekan, 17 Krakow Street asked about the issues with The Hops Company on Sodom Lane. Mr. Estwan stated that this is on the agenda for discussion.

## **Approval of Minutes**

Mr. Stankye moved to approve the minutes from the April 18, 2017 meeting. The motion was seconded by Mr. Jalowiec and carried unanimously.

Receipt of Applications

Mr. Estwan moved to accept and schedule for public hearing at the June meeting at application from Miguel Hayes for 340 Derby Avenue. Mr. Jalowiec stated that the application is incomplete and should not be accepted. Mr. Estwan stated that when it is received in the Building Department it is just a matter of processing. Atty. Shansky stated that an applicant can rectify an incomplete application prior to the public hearing.

Mr. Jalowiec moved not to accept, without prejudice, the application until it is complete. The motion was seconded by Mr. Stankye. Mr. McEvoy stated that the public hearing can be scheduled as far out as 65 days. Atty. Shansky stated that the applicant could complete the application prior to the public hearing. Mr. Jalowiec stated that the Commission has had this problem in the past with incomplete applications coming before the Commission to be accepted. Leslie Creane asked the Commission to reconsider this and accept the application. She stated that staff believes that the application will be complete prior to the public hearing. Mr. Jalowiec stated that he does not understand why staff accepts an incomplete application. Atty. Shansky stated that the applicant is told that they need to augment their application and something should be noted on the application that the applicant has been advised that they need to submit additional information. Leslie Creane stated that staff is trying to do what is best for the City and they believe that the paperwork will be completed. Mr. Stankye stated that in the past the Commission members did receive everything in advance of the meeting so they could review the materials. He felt that the application should be complete before it is given to the Commission. Mr. Estwan stated that the problem is that it has been happening with almost every application. He stated that once an application is accepted and a review letter is prepared by the city engineer then the applicant knows what he needs for the next meeting.

Mr. Jalowiec, Mr. Stankye and Mr. Stevens voted in favor of the motion. Mr. Estwan, Mr. Rogers, Mr. Sanchez, Mr. Misiewicz and Ms. Knopick voted against the motion.

Mr. Estwan moved to accept the application and schedule for public hearing at the July meeting and that the additional information be submitted not later than ten days prior to the public hearing. The motion was seconded by Mr. Misiewicz and carried unanimously.

Mr. Jalowiec moved to accept and hear at the June meeting an application for site plan review from C&R Property Services for Derby Suds for 21-23 Derby Avenue and notify the applicant of any deficiencies in the application. The motion was seconded by Mr. Stankye and carried unanimously.

Mr. Stankye moved to accept an application for site plan for barber shop and convenience store at 19 Derby Avenue and staff send a letter noting all deficiencies in the application at least ten days prior to the June meeting. The motion was seconded by Mr. Stevens and carried unanimously.

Mr. Estwan moved to accept and hear at the June meeting an application for site plan review from JRD Restoration for furniture restoration shop at 326 Derby Avenue; and staff notify the applicant of any deficiencies in the application. The motion was seconded by Mr. Stankye and carried unanimously.

Public Hearings

(a) Application from City of Derby Planning & Zoning Commission for Zone Text Amendment – continued..

Mr. McEvoy stated that at the last public hearing the Commission discussed the proposed zone text amendment associated with the CDD Zone, creation of a new center residence zone and mill design zone. He stated that an update to the zone text amendment was received and the only change is the addition of section numbers; all permitted uses and special exception uses added. He stated that there is nothing new.

Lorraine , 42 Cottage Street asked what the acronyms were. Mr. Estwan stated that they refer to the Central Design District, Mill Design District and Center Residence District.

There was no further public comment on the application. Mr. Estwan moved to close the public hearing. The motion was seconded by Mr. Stevens and carried unanimously.

b) Application from City of Derby Planning & Zoning Commission for Zone Map Change from R-5, B-2, I-1 and CDD Zones to MDD Zone – continued.

Mr. Ryan noted that there have been no changes to this application. There was no public comment on the application. Mr. Estwan moved to close the public hearing. The motion was seconded by Mr. Stevens and carried unanimously.

(c) Application from City of Derby Planning & Zoning Commission for Zone Map Change from CDD to CR (northeast) – continued.

Mr. McEvoy stated that there have been no changes to this application. There was no public comment on the application. Mr. Estwan moved to close the public hearing. The motion was seconded by Mr. Stankye and carried unanimously.

(d) Application from City of Derby Planning & Zoning Commission for Zone Map Change from CDD to CR (southwest) – continued.

Mr. McEvoy stated that there are no changes to this application. There was no public comment on the application. Mr. Estwan moved to close the public hearing. The motion was seconded by Mr. Jalowiec and carried unanimously.

(e) Definition & Word Usage, Food Truck – continued discussion.

Atty. Shansky stated that there is the issue about distinguishing between public and private properties and this revision clarifies that. Mr. Stankye asked if towable mobile kitchens should be added. Mr. Rogers stated that those do not have connections to water or sewer. There was no public comment. Mr. Estwan moved to close the public hearing. The motion was seconded by Mr. Stankye and carried unanimously.

New Business

(a) Discussion and possible action – Application from City of Derby Planning & Zoning Commission for Zone Text Amendment.

Modifications to Sections – 195-17(A) Mill Design District; 195-20 Center Design Development District; 195-20(A) Center Residence Zone.

Mr. Estwan moved that following review of the documentation submitted in support of this application, the Derby Planning & Zoning Commission finds the Z one Text Change to the above referenced sections is consistent with the goals of Section 195-2 and the Plan of Conservation and Development. Therefore, the Derby Planning & Zoning Commission hereby approves the Zone Text Change Application as presented. The effective date of the text amendment shall be May 30, 2017.

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

1. Application prepared by Milone and MacBroom, dated 03/14/2017.
2. Referrals to Naugatuck Valley Council of Governments & South Central Connecticut Regional Council of Governments from Milone and MacBroom, Inc. dated 03/20/2017.
3. Letter from Naugatuck Valley Council of Governments Regional Planning Commission dated 04/12/2017.
4. Zone Text Amendment with section numbers added, prepared by Milone and MacBroom, Inc., dated 05/16/2017.
5. Verbal Testimony from the Planning Zoning Commission, members of the public and City Staff at the April 18, 2017 and May 16, 2017 public hearing.

The motion was seconded by Mr. Jalowiec and carried unanimously.

(b) Discussion and possible action – Application from City of Derby Planning & Zoning Commission for Zone Map Change from R-5, B-2, I-1 and CDD Zones to MDD Zone. Area bounded by E Street, Park Avenue, North Avenue, Roosevelt Drive, Cemetery Avenue, Camptown Street and Housatonic River.

Mr. Estwan moved that following review of the documentation submitted in support of this application, the Derby Planning & Zoning Commission finds the Zone Map Change to the above referenced parcels is consistent with the goals of Section 195-2 of the Derby zoning regulations and the Plan of Conservation and Development. Therefore, the Derby Planning & Zoning Commission hereby approves the Zone Map Change Application as presented. The effective date of the Zone Map Change shall be May 30, 2017.

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

1. Application for Zone Map Change with supporting documentation dated March 15, 2017.
2. Letter to property owners subject to the Zone Map Change dated April 7, 2017.
3. Letter to property owners within 150' of the parcels subject to the Zone Map Change dated April 7, 2017.
4. Referrals to Naugatuck Valley Council of Governments & South Central Connecticut Regional Council of Governments from Milone and MacBroom, Inc. dated 03/20/2017.

5. Letter from Naugatuck Valley Council of Governments Regional Planning Commission dated 04/12/2017.
6. Plan entitled "Map Showing Proposed Zone Change, Prepared for Derby Planning and Zoning Commission", at a scale of 1"=150', dated March 13, 2017, prepared by Milone and MacBroom.
7. Plan entitled "List of Effected Properties, Prepared for Derby Planning and Zoning Commission", not to scale, dated March 13, 2017, prepared by Milone and MacBroom, Inc.

The motion was seconded by Mr. Stankye and carried unanimously.

(c) Discussion and possible action - Application from City of Derby Planning & Zoning Commission for Zone Map Change from CDD to CR (northeast). Area bounded by Water Street, Elizabeth Street and Cottage Street.

Mr. Estwan moved that following review of the documentation submitted in support of this application, the Derby Planning & Zoning Commission finds the Zone Map Change to the above referenced parcels is consistent with the goals of Section 195-2 of the Derby zoning regulations and the Plan of Conservation and Development. Therefore, the Derby Planning & "Zoning Commission hereby approves the Zone Map Change Application as presented. The effective date of the Zone Map Change shall be May 30, 2017.

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

1. Application for Zone Map Change with supporting documentation dated March 14, 2017.
2. Letter to property owners subject to the Zone Map Change dated April 7, 2017.
3. Letter to property owners within 150' of the parcels subject to the Zone Map Change dated April 7, 2017.
4. Referrals to Naugatuck Valley Council of Governments & South Central Connecticut Regional Council of Governments from Milone and MacBroom, Inc. dated 03/20/2017.
5. Letter from Naugatuck Valley Council of Governments Regional Planning Commission dated 04/12/2017.
6. Plan entitled "Map Showing Proposed Zone Change, Prepared for Derby Planning and Zoning Commission", at a scale of 1"=80', dated March 13, 2017, prepared by Milone and MacBroom.
7. Plan entitled "List of Effected Properties, Prepared for Derby Planning and Zoning Commission", not to scale, dated March 13, 2017, prepared by Milone and MacBroom, Inc.

The motion was seconded by Mr. Stevens and carried unanimously.

(d) Discussion and possible action - Application from City of Derby Planning & Zoning Commission for Zone Map Change from CDD to CR (southwest). Area bounded by Camptown Street, Cemetery Avenue, 7<sup>th</sup> Street, Hawkins Street (parcels on both sides), Anson Street (parcels on both sides) and Housatonic River.

Mr. Estwan moved that following review of the documentation submitted in support of this application, the Derby Planning & Zoning Commission finds the Zone Map Change to the above referenced parcels is consistent with the goals of Section 195-2 of the Derby zoning regulations and the Plan of Conservation and Development. Therefore, the Derby Planning & "Zoning Commission hereby approves the Zone Map Change Application as presented. The effective date of the Zone Map Change shall be May 30, 2017.

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

1. Application for Zone Map Change with supporting documentation dated March 14, 2017.
2. Letter to property owners subject to the Zone Map Change dated April 7, 2017.
3. Letter to property owners within 150' of the parcels subject to the Zone Map Change dated April 7, 2017.
4. Referrals to Naugatuck Valley Council of Governments & South Central Connecticut Regional Council of Governments from Milone and MacBroom, Inc. dated 03/20/2017.
5. Letter from Naugatuck Valley Council of Governments Regional Planning Commission dated 04/12/2017.
6. Plan entitled "Map Showing Proposed Zone Change, Prepared for Derby Planning and Zoning Commission", at a scale of 1"=80', dated March 13, 2017, prepared by Milone and MacBroom.
7. Plan entitled "List of Effected Properties, Prepared for Derby Planning and Zoning Commission", not to scale, dated March 13, 2017, prepared by Milone and MacBroom, Inc.

The motion was seconded by Mr. Jalowiec and carried unanimously.

(e) Discussion and Possible Action – Definition and Word Usage, Food Truck. – Modifications to Section 195-7.

Mr. Estwan moved that following review of the documentation submitted in support of this application, the Derby Planning & Zoning Commission finds the Z one Text Change to the above referenced sections is consistent with the goals of Section 195-2 and the Plan of Conservation and Development. Therefore, the Derby Planning & Zoning Commission hereby approves the Zone Text Change Application as presented. The effective date of the text amendment shall be May 30, 2017.

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

1. Memorandum from Attorney Marjorie Shansky dated December 12, 2016.
2. Referrals to Naugatuck Valley Council of Governments & South Central Connecticut Regional Council of Governments from Millone and MacBroom, Inc. dated 12/23/2016.
3. Letter from Naugatuck Valley Council of Governments Regional Planning Commission dated 01/25/2017.
4. Letter from South Central Connecticut Regional Council of Governments Planning Commission dated 01/18/2017.
5. Verbal Testimony from the Planning and Zoning Commission, members of the public and City Staff at the February 21, 2017 and May 16, 2017 public hearing.

The motion was seconded by Mr. Rogers and carried unanimously.

(e) Application from Randy Denny for Barber Shop at 154 New Haven Avenue, R-5 Zone.

Randy Denny, 29 Minerva Street, Derby was present. Mr. McEvoy read his review letter and stated that professional offices are allowed by special exception. Mr. Estwan stated that there is a barber shop next door. This is defined as personal services which is not allowed in the R-5 Zone. He stated that based on that fact the application should not have gotten this far. Mr. Estwan moved to table to the June meeting. The motion was seconded by Mr. Stankye and carried unanimously.

Old Business

(a) Informal discussion with Joe Salemme RE: Lie touch Building, continued.

Mr. Salemme was not present and Mr. Estwan stated that there is nothing new at this time regarding this item.

(b) Discussion and follow up on Rich Dziekan letter regarding THC property improvements – continued.

Mr. Estwan read the response letter from the Zoning Enforcement Officer. Mr. McEvoy stated that he went to the site and reviewed the regulations with respect to the comments made by Mr. Dziekan regarding non-conformity.

Atty. Dominick Thomas, 315 Main Street was present for the applicant and submitted a response letter and photographs of the property. He stated that the parking regulations is one space for every two seats and there are 220 seats and another 100 were added for 320 seats and 160 spaces. He stated that he counted 200 spaces on the top and bottom of the property. He stated that there is outdoor seating and this property has been used as a food service restaurant for many years. He stated that he discussed the issues with his client. Mr. McEvoy stated that the outdoor seating had to be removed which has been done.

Richard Dziekan, Krakow Street asked about the height of the wall and also the expanded customer area. He stated that they have expanded the non-conforming use. Mr. Estwan stated that they have taken away the outdoor seating area. Mr. McEvoy stated that the fence is six feet high and on an incline slope so that it appears taller than six feet. Mr. Estwan stated that the Commission needs to determine if this is something that is better for this use.

(c) Informal Discussion with AIEP regarding 101 Marshal Lane, Boarding School residence.

Atty. Dominick Thomas, 315 Main Street Derby was present and stated that he represents AIEP International Education. David Guerrara from AIEP was also present. Atty. Thomas stated that the matter was continued from the last meeting. He stated that a school is permitted by special permit. He stated that they are proposing a dormitory for up to secondary education students. He presented an outline that he prepared of what would have to be done to change the regulation. He stated that it would require a text change. He also presented an outline of the potential text change. He stated that this property is currently the subject of a tax appeal. He stated that the State of Connecticut no longer issues licenses for nursing homes. He stated that the amount of taxes will be substantially reduced. He stated that they looked at the property for apartments but decided that it would not be an appropriate use. He stated that with the proposed improvements to the property it would generate a greater amount of taxes. He stated that foreign students that are enrolled in the school pay full tuition at private schools in the area. This would be an adaptive re-use creating tax benefits with improvements to the building and grounds. He stated that there would be no traffic impact and the building would be limited to a single story structure.

David Guerrara stated that the major of the students are high school age. Atty. Shansky asked about supervision. Mr. Estwan stated that it was noted that most of the students choose to stay with host families and asked what would happen to the building if children do not stay there. Atty. Thomas stated that it would be empty but they are having difficulty finding host families in the area. The students are transported by shuttle to the various schools and the parking on the site would be for staff living there as well as maintenance staff and office staff. The school transportation vans would also be parked on the site. There is a lot of available parking on the property and the site is buffered. The parking in the back would be screened.

Atty. Shansky asked about setbacks from residential uses in the area. Atty. Thomas stated that the set backs would be from the property line. He stated that there would be approximately 150-200 potential students and other people can take classes there. Mr. Guerrara stated that they would also be open to having events there at times with the community but the sole purpose would be for the students. Mr. Guerrara stated that they are now at Chase Collegiate School and that building was renovated. There is a resident advisor living on the premises. Atty. Shansky asked if the building would become the school. Mr. Guerrara stated that all students attend other schools. Mr. Jalowiec asked about the summer months. Mr. Guerrara stated that the students return home although some to stay but they would need to be enrolled in programs. Atty. Shansky asked about the outdoor play area. Atty. Thomas stated that there would not be any outdoor play area.

Mr. Jalowiec stated that he felt that with the number of students there will be traffic increase in the area. Mr. Guerrara stated that there would be four to five school buses at most. Mr. Misiewicz asked who drives the buses and Mr. Guerrara stated that the organization provides the buses and drivers.

Anthony Simonetti stated that the facility previously had 120 residents and 95 staff. There was a lot of traffic during shift changes and this would be a lot less traffic. Mr. Estwan stated that the Commission is working on drafting PDD regulations and there may be other parcels in the City that would fit. Mr. Stankye asked the ratio of students with staff. Mr. Guerrara stated that it would be 20-25 per RA. Atty. Shansky asked if they need a state license and Mr. Guerrara stated that they do not. Atty. Thomas asked that the item remain on the agenda. Mr. Estwan suggested that Atty. Thomas speak with Atty. Shansky on how to proceed. Mr. Estwan stated that the item will remain on the agenda for next month's meeting.

#### Payment of Bills

Mr. Stevens moved to approve payment of Invoice #80743 \$3,360.62 from Milone and Mac Broom.. 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 9:15 p.m.

Respectfully submitted,

  
Maryanne DeTullio, Clerk