

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

A special meeting of the Planning and Zoning Commission of the City of Derby was held on Tuesday, October 3, 2017 at 7:00 p.m. in the Aldermanic Chambers, City Hall, 1 Elizabeth Street, Derby.

The meeting was called to order at 7:09 p.m. by Chairman Ted Estwan. Present were: Ted Estwan, David Rogers, Glenn Stevens, Albert Misiewicz, Richard Stankye, Raul Sanchez and Cynthia Knopnick. Also present were Atty. Marjorie Shansky, Ryan McEvoy, Milone & MacBroom, Leslie Creane, Economic Development Director and Maryanne DeTullio, Clerk.

Public Portion

There was no one from the public wishing to speak.

Approval of Minutes

Mr. Estwan moved to approve the minutes from the July 18, 2017 meeting. The motion was seconded by Mr. Stankye and carried 6-0-1 with Mr. Rogers abstaining. A motion to approve the July 31, 2017 meeting was made by Mr. Estwan, seconded by Mr. Rogers and carried 5-0-2 with Mr. Sanchez and Mr. Misewicz abstaining. A motion to approve the minutes of the September 19, 2017 meeting was made by Mr. Estwan, seconded by Mr. Stevens and carried unanimously.

Receipt of Applications

Mr. Stankye moved to accept for the October meeting an application for site plan approval for improvements to existing athletic fields, 75 Chatfield Street. The motion was seconded by Mr. Stevens and carried unanimously.

Mr. Stevens moved to accept for the October meeting an application for site plan for new field house, baseball field and associated site improvements, 75 Chatfield Street. The motion was seconded by Mr. Sanchez and carried unanimously.

Mr. Estwan moved to accept for the October meeting an application for site plan for Super Cuts Hair Salon, 49 Pershing Drive. 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 For Educational Dormitory Residences – Section 195-7, 195-11(D) and 195-54(A) continued from August 14, 2017 and September 29, 2017 meetings.

Mr. Estwan stated that a few changes have been made and they have added back in the F1 visa Requirement for international foreign exchange students which is a requirement of the federal government..

He stated that the other change that was made is with the number of beds allowed. The total beds Shall not exceed 45 per acre and shall not exceed 150 per lot. This is all beds including staff, students and residential advisors. Mr. Estwan asked for any public comment.

Maureen Kelleher, 39 Belleview Drive asked if the definition could be made as a separate item. She did not think that the parking of one space for every ten is enough. She stated that it does not include vans or buses.

Mr. Estwan stated that Commission does not want to add additional parking spaces because they do not want to have a large paved area. They also do not want to encourage a lot of visitors or guests.

Maureen Kelleher stated that if if the students do not have cars other friends will come to visit and she did not think there was sufficient parking.

Mr. Estwan stated that there is no application at this time. He stated that the Commission had informal meeting with a potential applicant. The Commission wanted to regulate this and therefore filed the application for the text change. He stated that once an application is filed because it is a special exception there will be a public hearing and parking can be limited at that time.

Maureen Kelleher felt that it should be included that there may be additional parking spaces required.

Mr. Estwan stated that under an F1 visa they have to apply and show that they can pay for tuition and housing.

Maureen Kelleher asked if the organization has a large group coming who will go to the Derby public schools. Atty. Shansky stated that you have to have resident status and the F1 visa does not do that. Atty. Shansky stated that they are not eligible to attend a public school without paying full tuition. Mr. Estwan stated that the visa is done on an individual basis and they are not residents of Derby. The requirements are very specific that you do not establish residency. He stated that they would have to apply to go to the public school and the school system can say that they are not accepted. They have to be accepted at a school because they can get the visa. They also have to show intent that they are going back to their own country. Atty. Dominick Thomas sated that they cannot stay during the summer months; that would be a different visa. M. Kelleher asked if it is only for the academic year and Mr. Estwan stated that an individual has to apply every twelve months.

Pamela Marena, 1 Pine Street asked if this is coupled with any other programs. Mr. Estwan stted that the Commission had an informal discussion with a potential applicant and the use of this property. The Commission drafted the regulation and it is up to the applicant to apply under special exception and have a public hearing.

Pamela Marena stated that they will be brining a large number of youth into the neighborhood who are from different cultures and do not know our laws.

Mr. Estwan stated that at this time is it only a text change amendment and nothing else. The questions being asked are in the details of an application and those questions will not be answered this evening but when an application is submitted and during that public hearing.

Mr. Augustine, Harold Avenue stated that this is a zone text change to allow an applicant to come in and apply.

David Kopjanski, 54 Franklin Avenue presented revisions to the definition in Section 195-7 for international student and also to adaptive reuse. He stated that this is a special exception use and he also felt that the parking requirement was reasonable and goes a long way to protect the residents in the area. He felt that the adaptive reuse was the biggest change. He stated that the City has not experience with educational dormitories and this will have an impact on the City services. His written comments were accepted as Exhibit 1 for the record.

John Walania, 37 George Avenue asked if anyone has applied. Mr. Estwan stated that the Commission was approached several months ago the Commission was approached in an informal manner by someone interested in doing something like this. It was discussed informally with a potential applicant and then the Commission decided to draft their own regulation and there is no formal application at this time. Mr. Walania asked what say the public would have afterward.

Mr. Estwan stated that is the zone text amendment is approved then an application would have to submit an application for special exception use which requires a public hearing. There would be a notification in the newspaper, on the City website and anyone within 100 feet of the property would be notified by mail. He stated that a lot of details that have been brought up this evening will be answered at that time.

Mr. Walania stated that he did not think it was right for the Commission to make the decision for the whole town. Mr. Estwan stated that the members are appointed to the Commission and are bound to follow the laws.

Nicki Mastrianni, 105 Ida Avenue asked about making the decision for the whole town. Mr. Estwan stated that the Commission is zoning for the entire City and is doing what is in the best interest of the whole town. At this time there is no application. He stated that they are following the law by having this public hearing and changes have already been made based on public comment. The Commission is listening to all the input from the public and will consider it.

Katherine Albarella, 25 O'Sullivan Drive asked if someone purchased this property. Mr. Estwan stated that the Commission only had an informal discussion and at this time discussing the zone text change.

Mike Alberta, 325 David Humphreys Road asked if there is an application. Mr. Estwan stated that no application has been filed and it was only an informal discussion. He stated that if someone applies and gets approved there would be tax revenue generated for the City. He stated that this public hearing is on the zone text change which would affect eight properties in the city. He stated that the number of beds would be capped per parcel.

Mr. Ponzillo, 32 Bellevue Drive stated that a zone change was done several years ago and there was a lot of opposition to that but it was still approved. Mr. Estwan stated that nothing was ever built on that land but it was not overbuilt.

Bill Bowers, 8 Jeanette Drive asked what the Commission was looking for from the public. Mr., Estwan stated that it is a zone text change to allow under special exception and the Commission is asking for comments on that.

Lou Benson, 9 Pine Street asked if there was any other towns that allow this.

Laura Buonno, 131 Marshall Lane stated that she has some concerns that it will be a dormitory. Mr. Estwan stated that the students have to have a F1 visa.

Sue Goncalves, 54 Chestnut Drive did not think that this was best for Derby and asked if a zone change can be reversed. Mr. Estwan stated that it is not a zone change it is a zone text change. He stated that it does not just give someone the right, it is under special exception.

Mr. Stevens stated that the Commission has been working on this for three months and have heard from the public and incorporated some changes based on comments made. He stated that the Commission is trying to listen to everyone and take the comments into consideration before making a decision. He stated that this would be for eight properties.

Diane, 26 Hillcrest Avenue stated that this meeting is just about a text change and not an application. She encouraged the public to read the newspaper and go on the City website and read the minutes from the meetings.

Ann Cruthers, 60 Bellevue Drive stated that when an application is filed then the public can come to that public hearing and express their concerns.

F. Gallo, 16 Jeanette Drive asked how they came up with the number of beds. Mr. Estwan stated that it is based on input from the Commission members and public. He stated that it would be 45 per acre with a cap of 150. Mr. Gallo asked what will be the breakdown between staff and students. Mr. Estwan stated that this is a tax generating proposal and this zone text change would affect eight properties in the city which are located all over the city. Ryan McEvoy, Mllone and MacBroom stated that all the property are in the R-3 Zone.

John O'Connell, Harold Avenue asked if an application is filed if it will be accepted. Mr. Estwan stated that there will be a public hearing and all comments will be taken into consideration. He stated that if something is approved it comes with conditions of approval which are generated by comments and concerns that people have. He stated that if something is a permitted use as long as it meets the guidelines there would not be a public hearing. This would be under special exception and would require a public hearing.

Jack Tilki, Franklin Avenue asked if they are licensed in the State of Connecticut. He also asked if it is for profit or non-profit. Mr. Estwan stated that there is no application but looking at something that would generate tax dollars.

Anthony Simonetti, 6 Hayfield Drive, Shelton, owner of the property stated that he appealed the taxes and they were reduced. He stated that the City has lost a lot of commercial business and this would help with taxes.

V. Litchmore, 260 Marshal Lane stated that the dormitory is her concern. Mr. Estwan stated that there is no application at this time. He Commission only had an informal discussion with a potential applicant. V. Litchmore stated that a lot of people will be affected by this. Atty. Shansky stated that the public hearing is advertised in the New Haven Register and it is also on the city website. J If anyone is interested they can come to the meetings.

Mr. Estwan stated that Marshal Lane Manor closed and the State no longer licenses nursing homes. Another nursing home cannot be opened at this location; it is not allowed. He stated that the City has received inquiries about condominiums or other things. He stated that the City is looking at what can be done with this property can generate more tax dollars.

Mike Alberta, David Humphreys Road stated that changes will have to be made to this building. Mr. Estwan stated that the applicant will have to make those changes. He stated that that a student will have to have a F1 visa and be able to show that they can pay for tuition and housing. They have to show what school they would be attending when applying for the visa.

Atty. Dominick Thomas, 315 Main Street, Derby stated that he was approached by someone interested in putting in apartments at this location. He stated that more than likely if approved there will be an application filed. He stated that he will hold a neighborhood meeting on the location but at this time there is no application filed. He stated that if there is an application filed the details will be in the statement of use. He stated that the property has not been purchased; it is under contract. The goal is to generate taxes for the City. He stated that he reviewed the visa requirements and the parents pay for everything; it cannot be non-profit under Title 12 of the Connecticut General Statutes.

Pamela Marena, 1 Pine Street asked if anyone from the police department spoke. Mr. Estwan stated that no one has. She stated that this is a small town and she was concerned with international students.

David Kopjanski, 54 Franklin Avenue stated that the City has no experience with this type of operation. He felt that it should be limited to the adaptive reuse of Marshal Lane Manor.

Anthony Simonetti stated that there is nothing going to the City from this property. He stated that they are looking for something that will fit in that property. This is something that will work for the City.

Marc Garofalo, 95 Academy Hill stated that he is concerned about the seven other properties. He stated that they are all very residential neighborhoods that don't have the acreage that this one does. He felt that the Commission should look at the impact to those parcels.

Albert Lucarelli, 63 Belleview Drive stated that with a F1 visa they cannot go to the elementary schools but can go to the high school. Mr. Estwan stated that the student would have to be accepted by the public school.

Richard Stankye stated that the Commission has received a lot of information to review. Mr. Misiewicz felt that the information presented by Mr. Kopjanski should be considered.

Mr. Estwan stated that this was accepted last month and the concern was the amount of beds and how to regulate it. The F1 visa requirement was put back into the regulation.

A motion to close the public hearing was made by Mr. Estwan, seconded by Mr. Rogers and carried unanimously. The public hearing was closed at 9:10 p.m.

A short recess followed and the meeting continued at 9:15 p.m.

New Business

(a) Discussion and possible action - Application from City of Derby Planning & Zoning Commission for Zone Text Amendment for Educational Dormitory Residences – Section 195-7, 195-11(D) and 195-54(A).

Mr. Stevens asked about adaptive reuse and Mr. McEvoy stated that the other properties that are potentially eligible under this proposal would not be an adaptive reuse that would be limited to the Marshal Lane Manor property. Atty. Shansky stated that all properties would still be subject to the special exception process. Mr. Estwan stated that the other properties in town that would be affected by this change may be prohibitive from this type of use. He stated that with having a limiting cap some of the properties that are larger could not be cost effective. Mr. Estwan asked about parking and Mr. McEvoy stated that one space for student transport vehicles would be reasonable. Mr. Estwan stated that if it is a bus or van it would probably be two spaces and the number can be limited during the application process.

Mr. Stankye asked if another school system could accept someone with a F1 visa. Mr. Estwan stated that staffing and residential advisors will be addressed during the application process. Mr. McEvoy stated that language was added about adaptive reuse and also a 15 foot landscape buffer area. This is a residential use abutting a residential use. He stated that they would recommend 25 feet for new buildings; adaptive reuse is 15 feet. Mr. Stevens stated that we heard a lot of comments over the last few months. He stated that this gives the Commission something to look at that may be a good fit for the neighborhood.

Mr. Estwan moved that following review of the documentation submitted in support of this application, the Derby Planning & Zoning Commission finds the Zone Text Change to Section 195-7: Definitions; Section 195-11: Residential -3 (R-3) Zone; and Section 195-54. Parking Spaces: number and location 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 modified. The effective date of the text amendment shall be October 13, 2017. The approval shall be based upon the following documents submitted in support of this application:

1. Application prepared by Milone and MacBroom dated 07/31/2017.
2. Referrals to Naugatuck Valley Council of Governments & South Central Connecticut Regional Council of Governments from Milone and MacBroom, inc. dated 09/18/2017.
3. Letter from Naugatuck Valley Council of Governments Regional Planning Commission Dated 8/14/2017.
4. Zone Text Amendment prepared by Milone and MacBroom, Inc. revised to 10/3/2017.

5. Verbal Testimony from the Planning and Zoning Commission, members of the public and City staff at the August 13, 2017, September 19 2017 and October 3, 2017 public hearing.
6. Exhibit 1 – Draft Revisions to Derby Zoning Regulations Text Amendment, dated October 3, 2017, prepared by David Kopjanski.

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

Payment of Bills

Mr. Estwan moved to approve payment of any bills submitted. The motion was seconded by Mr. Stankye and carried unanimously.

A motion to adjourn was made by Mr. Estwan, seconded by Mr. Stevens and carried unanimously. The meeting was adjourned at 9:35 p.m.

ATTEST:



Maryanne DeTullio, Clerk