



# Planning and Zoning Commission City of Derby

Theodore J. Estwan, Chairman  
Albert Misiewicz  
Raymond Sadlik

Steven A. Jalowiec, Vice Chairman  
Raul Sanchez  
Cynthia Knopick – Alternate

David Kopjanski  
Glenn H. Stevens  
Thomas Lionetti - Alternate

## Regular Meeting Minutes – 7:00 p.m. – Tuesday, July 16, 2019 Derby City Hall, Aldermanic Chambers: 1 Elizabeth St., Derby, CT

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### 1. Call to Order

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

### 2. Pledge of Allegiance

Chairman Estwan led the Pledge of Allegiance

### 3. Roll Call

Members present:

Theodore Estwan, David Kopjanski, Albert Misiewicz, Raul Sanchez, Cynthia Knopick and Thomas Lionetti.

Steven Jalowiec, Raymond Sadlik and Glenn Stevens were excused.

Also present: Atty. Timothy Herbst, City Engineer Ryan McEvoy and Rebecca Augur, AICP of Milone & MacBroom and Building Official Carlo Sarmiento.

### 4. Communications

Nothing was presented.

### 5. Public Portion

No one came forward

### 6. Approval of Minutes

**MOTION** by Raul Sanchez and second by Theodore Estwan. Move to approve the minutes of the monthly meeting on June 18, 2019. Motion carried unanimously.

### 7. Receipt of Applications:

No new applications.

### 8. Public Hearing:

**B. 31-37 Anson Street – Anson Street Realty, LLC – Application for special exception** to convert a vacant commercial space into a residential apartment.

Reviewing the timeline on this application, the extension request previously received expires today. The applicant is not present this evening nor has he requested a further extension. Reviewing the application it was cited that the current residential density of the property is 70 units per acre (16 units on a 0.23 acre lot). The proposed density of 74 units per acre (17 units on a 0.23 acre parcel) exceeds the maximum residential density of 40 units/acre as stated in Section 195-20(A).G.2. of the Zoning Regulations. Further information was requested but not received from the applicant beyond what is received with the initial application. The parcel is currently non-conforming and this request would make it even more so.

The chair asked if there was anyone wishing to speak during this public hearing. No one was present to speak. Mr. Kopjanski noted that an application should not be entertained if it does not meet the conditions of the zoning regulations. Recent work has apparently been done on the parcel without a building permit which initiated the application. The applicant was given an opportunity to present the reasoning for why this request should be granted. The applicant did not bring forth new information.

**MOTION** by Theodore Estwan and second by Raul Sanchez. Move to close the public hearing for 31-37 Anson Street – Anson Street Realty, LLC. Motion carried unanimously.

**A. City of Derby – Planning and Zoning Commission –Zone Text Change Application** to create a Core Planned development District (C-PDD) to the city of Derby located within the CDD zone North of Main Street and the MDD Zone.

The proposed zone text change is intended to support growth, redevelopment and enhancement of downtown Derby in accordance with the goals of Derby's Plan of Conservation and Development and the promotion of the public health, safety and general welfare. The intention is to increase economic vitality in downtown Derby, encourage mixed-use development, promote a variety of retail, service and related commercial uses and maintain the architectural character and appearance of the downtown and historic mill area.

Ms. Augur gave a brief overview and was present to answer any questions. Mr. McEvoy noted that a staff referral report from Joanna B. Rogalski, Regional Planner, NVCOG, reviewed the proposed zoning text amendment and found that it is not regionally significant with minimal inter-municipal impact.

Mr. Kopjanski asked for further detail regarding residential parking requirements. Mr. McEvoy stated that the intent would be that the applicant would have the flexibility to come up with a parking plan with supportive documentation that the Commission would review and determine its acceptability. Mr. Kopjanski felt that a baseline figure should be set within the regulation for residential developments. Certainly it can be multi-tiered dependent on the individual units and anticipated occupancy and other details of said application. Discussion continued pointing to the reasoning that this provides flexibility but does not casually allow for reductions in limits. The C-PDD is focused on a limited area within the downtown that can benefit from this promotion. Atty. Herbst noted that the Commission, under this text change, will be the gatekeeper and will have a certain level of discretion to make certain requirements of the applicant. One of the positive things with this language is that if you are not comfortable with the application and deny it and an appeal is taken; as this is a C-PDD district the court will accord you the broadest levels of discretion.

As this is a public hearing, the chair asked if there was any further comment. Nothing further was presented.

**MOTION** by Theodore Estwan and second by Albert Misiewicz. Move to close the public hearing for **Zone Text Change Application** to create a Core Planned development District (C-PDD) to the City of Derby located within the CDD zone North of Main Street and the MDD Zone. Motion carried unanimously.

## **9. New Business:**

**A. City of Derby – Planning and Zoning Commission –Zone Text Change Application** to create a Core Planned development District (C-PDD) to the City of Derby located within the CDD zone North of Main Street and the MDD Zone.

The discussion on the parking space baseline was again considered and members and staff weighed the possible merits and detriments. The flexibility of the C-PDD was stressed and there was concern that setting a baseline might be too restrictive.

**MOTION** by Theodore Estwan and second by Albert Misiewicz. Move to approve the **Zone Text Change Application** to create a Core Planned Development District (C-PDD) to the City of Derby located within the CDD zone North of Main Street and the MDD Zone with stipulations as stated:

Application: Zone Text Change

Applicant: City of Derby Planning and Zoning Commission

Additional Section:

Section 195-24(A) to 195-8(A): Zoning Map & Section 195-24(A): Core Planned Development District

Following review of the documentation submitted in support of this application, the Derby Planning & Zoning Commission finds the Zone 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 proposed. The effective date of the text amendment shall be **August 9<sup>th</sup>, 2019**.

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

- 1) Application prepared by Milone and MacBroom, dated 06/12/2019
- 2) Referrals to Naugatuck Valley Council of Governments & South Central Connecticut Regional Council of Governments from Milone and MacBroom, dated 06/13/2019
- 3) Letter from Naugatuck Valley Council of Governments Regional Planning Commission dated 07/05/2019
- 4) Email from South Central Regional Council of Governments dated 07/02/2019
- 5) Verbal Testimony from the Planning and Zoning Commission, members of the public and City Staff at the July 16, 2019 Public Hearing

Motion carried unanimously.

**B. 49 Pershing Drive – Phoenix Vietnamese Cuisine for Site Plan Approval** – discussion and possible action for a dine-in and dine-out Vietnamese restaurant.

The applicant was present and indicated that they will be moving into the old GCS computer store location. Grade A Supermarkets, landlord for the parcel, sent a letter stating that the applicant has entered into a lease agreement and is authorized to come before the Commission. Parking calculations were presented.

Members noted the passing of Rocco “Rocky” Cingari, longtime owner and operator of ShopRite stores in Connecticut and a former board member of Wakefern, at the age of 89. Mr. Cingari served as president and CEO of Grade A Market for nearly 40 years until January, when his nephew, Tom Cingari Sr., succeeded him as president and CEO of the family company.

**MOTION** by Theodore Estwan and second by Albert Misiewicz. Move to approve the **Site Plan Approval Application** for a dine-in and dine-out Vietnamese restaurant with stipulations as stated:

Application: Nam Nguyen  
Application for Site Plan Approval  
49 Pershing Drive

Motion: Following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Site Plan

Application for Pho-Enix Vietnamese Cuisine on property shown on Derby Assessors Map 7-12, Lot 18 based upon the following documents submitted in support of this application:

- 1) Derby Planning and Zoning Commission Application for Special Exception Use and /or Site Plan Approval with a Statement of use
- 2) Plan entitled, "Cover Sheet, C-1" for Valley Shopping Center – Pho-Enix Vietnamese Cuisine, prepared by John Ruffalo Architecture, dated June 5, 2019
- 3) Plan entitled, "Improvement Location Survey" for 49 Pershing Drive, LLC, prepared by Savarese and Schefilto, P.C., dated October 6, 2003
- 4) Plan entitled, "Proposed Floor Plans, Kitchen Schedule & Wall Types, Sheet A-1" for Valley Shopping Center – Pho-Enix Vietnamese Cuisine, prepared by John Ruffalo Architecture, AIA, dated June 4, 2019
- 5) Letter from Milone and MacBroom, Inc., dated June 13, 2019
- 6) Letter and parking Analysis from James Tarantino, C.P.A. dated July 11, 2019
- 7) Verbal Testimony from the applicant, Planning and Zoning Commission, and City Staff at the July 16, 2019 regular meeting

With the following stipulated conditions:

- 1) 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.
- 2) 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.

Motion carried unanimously.

#### **10. Old Business:**

##### **A. 31-37 Anson Street – Anson Street Realty, LLC**

**MOTION** by Theodore Estwan and second by David Kopjanski. Move to deny the **Application** for an additional apartment with stipulations as stated:

Application: Additional Apartment to Existing Multi-Family Apartment Building  
Assessor's Map 8-5, Lot 26

Applicant: Aaron Kanevsky

Following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby denies the Special Exception Application for Aaron Kanevsky on property shown as Derby Assessors Map 8-5, Lot 26 for the following reason:

The current residential density of the property is 70 units per acre (16 units on a 0.23 acre lot). The proposed density of 74 units per acre (17 units on a 0.23 acre parcel) exceeds the maximum residential density of 40 units/acre as stated in Section 195-20(A).G.2. of the Zoning Regulations

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

Derby Planning and Zoning Commission Application for Special Exception Use with attached statement of use

Building Plan depicting the floor plan of the proposed residential unit

Letter from Milone and MacBroom, Inc. dated May 21, 2019

Email correspondence from the applicant granting an extension to keep the public hearing open until the July meeting dated 6/18/2019

Testimony from the applicant, City Staff, and the Planning and Zoning Commission at the Public Hearings held on 5/21/19 and 7/16/2019.

Motion carried unanimously.

#### **11. Updates on Previous Approvals**

. It was noted that an appeal has been filed for the 73-75 Chatfield Street – South Central CT Regional Water Authority approval. Nothing further was discussed

#### **12. Payment of bills**

**MOTION** by Theodore Estwan and second by Raul Sanchez. Move payment of the following invoices to Milone and MacBroom for professional services for the period June 1, 2019 to June 30, 2019:

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| Invoice #92232 dated July 10, 2019 for Application review and draft motion | \$831.25 |
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75 Chatfield St – RWA Tank

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|--|------------|
| Invoice #92233 dated July 10, 2019 for General consultation & administration | \$1,160.70 |
|--|------------|

44 Pershing Drive

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|--|-----------|
| Invoice #92235 dated July 10, 2019 for site plan review – Site Plan Review | \$ 450.00 |
|--|-----------|

Nam Nguyen – 49 Pershing Dr

#### **13. Adjournment**

**MOTION** by Theodore Estwan and second by David Kopjanski. Move to adjourn the meeting at 7:50 PM. Motion passed unanimously.

Respectfully submitted;

Karen Kemmesies

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