



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, May 21, 2019 Derby City Hall, Aldermanic Chambers: 1 Elizabeth St., Derby, CT

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, Steven Jalowiec, David Kopjanski, Raul Sanchez, Raymond Sadlik and Thomas Lionetti.

Albert Misiewicz and Cynthia Knopick were excused.
Glenn Stevens was absent.

Also present: Atty. Barbara Schellenberg and City Engineer Ryan McEvoy

4. Communications

Nothing was presented.

5. Public Portion

No one call forward

6. Approval of Minutes

MOTION by Theodore Estwan and second by Steven Jalowiec. Move to table the approval of the minutes of the monthly meeting on April 16, 2019. Motion carried unanimously.

7. Receipt of Applications:

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

MOTION by Theodore Estwan and second by Steven Jalowiec. Move to accept application from 31-37 Anson Street – Anson Street Realty, LLC – Application for special exception with public hearing to be held on May 21, 2019. Motion carried unanimously.

8. Public Hearing:

A. 73-75 Chatfield Street – South Central CT Regional Water Authority – Application for a Special Exception for a 1.0 million gallon water storage tank for a lot 2 (school property) and a proposed parking lot for lot 4 (St. Peter & Paul property).

Mr. McEvoy acknowledged receipt of a letter from the South Central CT Regional Water Authority agreeing to a second continuance of the application to the Planning and Zoning Commission meeting on June 18, 2019.

MOTION by Theodore Estwan and second by Raymond Sadlik. Move to continue the public hearing for South Central CT Regional Water Authority subject to pending action by the Board of Alderman. Motion carried unanimously.

Atty. Schellenberg noted that the Board of Alderman has gone out for a RFP.

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

Aaron Kanersky – applicant was present. He explained his request to convert the space to an apartment.

Mr. McEvoy communicated in his letter to the chair dated May 21, 2019 that in accordance with Section 195-20(A).G.1 of the Zoning Regulations, the residential density in the Center Residence Zone “shall not exceed a density of 40 units per acre ...”. Based on the limited information provided by the applicant to date, there are currently 16 apartment units on a parcel with approximately 0.23 acres, for a current density of roughly 70 units per acres. An additional residential unit would increase the non-conformity of the density to roughly 74 units per acre, unless the applicant can demonstrate that the parcel is larger than what is shown on the Assessor’s mapping.

Mr. Kopjanski stated that the portion of the property has been used as storage since the early 1990’s. He suggested that Fire Marshal inspection reports may provide further information on the property. Mr. Sarmiento indicated that the records were reviewed and revealed 16 residential units and 1 commercial.

It was decided that an A2 site plan needed to be submitted. The applicant should determine the parking space requirements for commercial verses residential. Further, he should offer any further documentation that would support the requested conversion.

As this is a public hearing the chair asked if there was any public seeking to speak on this application. No one came forward.

MOTION by Theodore Estwan and second by Steven Jalowiec. Move to continue the public hearing for 31-37 Anson Street – Anson Street Realty, LLC. Motion carried unanimously.

9. New Business:

A. 326 Derby Avenue – The Quail & Ales for a Site Plan Approval for a full-service restaurant

Applicants Jason and Sarah Miller were present. Jesse Judson, L.S. of Horbal and Judson Land Surveyors and Associates was present for the applicants. Confirmation of the notification of abutting property owners was presented for the file.

The parcel contains multiple businesses with shared parking. With proper striping of the lot, there would be sufficient parking spaces for the existing and proposed use. There is also parking on the street. This use will be 1,300 sq. feet and the intent is to have evening hours of operation, when many of the existing businesses will be closed. Regulations hold the maximum number of patrons to be 49 patrons. The applicant felt this would be a small neighborhood location that has many condominium units and multi-family units in walking distance of the site. The applicant is not seeking any outdoor seating. A 24 sq. foot sign is being proposed.

Mr. Kopjanski questioned if there is lighting in the parking lot. Mr. Miller stated that the street lighting seems to provide sufficient illumination. It was suggested that the use of the parking lot should be encouraged so as not to occupy street spaces that are generally used by apartment units in the vicinity. Directional signage for the parking lot is to be considered.

MOTION by Theodore Estwan and second by Steven Jalowiec:

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 Jason Miller on property shown on Derby Assessors Map 6-11, Lot 15 subject to the conditions outlined below.

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 And Site Plan Approval
2. Statement of Use, submitted by Jason and Sarah Miller, dated April 16, 2019
3. Plan entitled " Proposed Site Plan, #320-340 Derby Avenue (Route #115), Derby, Connecticut, Prepared for Work in Progress LLC", dated March 29, 2019, prepared by Horbal & Judson Land Surveyors & Associates
4. Plan entitled " Floor Plan, Derby Avenue, Connecticut 06418", prepared by Mike Gadacy
5. Letter from Milone and MacBroom, Inc. dated May 10, 2019
6. Letter from Burtville Associates, LLC, dated May 20, 2019
7. Testimony from the applicant, Commission member and City staff at the regularly scheduled meeting on May 21, 2019.

This approval shall be subject to the following stipulated conditions:

1. All handicapped parking shall be provided in accordance with the CT State Building Code.
2. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.
3. 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.

B. 34 Pershing Drive – Moe’s Southwest Grill for a Site Plan Approval for a restaurant

John MacNeil of Savin Brands, John Schmitz, PE of BL Companies and Robert Savin of Savin Foods were present. Confirmation of the notification of abutting property owners was presented for the file.

The applicant is seeking to occupy space originally defined for retail use for the purpose of a restaurant. It will be an end unit on Building B occupying 2,684 sq. feet.

Mr. Sarmiento indicated that recently he reviewed effects on parking by the dumpsters for the existing businesses and adjustments and relocating has been accomplished to insure that the number of overall parking spaces is being maintained and there is better traffic flow. It was noted that this modification does reduce the number of spaces needed and there is more than sufficient spaces for the use.

MOTION by Theodore Estwan and second by Steven Jalowiec-

Application: Special Exception Use and Site Plan Approval

Savin Brands (John MacNeil) – 44 Pershing Drive. – Moe’s Southwest Grill and Parking Reduction 44 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. 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 a modification 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 / and/or Site Plan Approval with a Statement of Use

2. Letter from Dan Richman, Landlord for the Red Raider Plaza, to Derby Planning and Zoning Board, dated April 25, 2019
3. Letter from John Schmitz, Project Manager from BL Companies, to Theodore J. Estwan, Chairman of City of Derby Planning & Zoning Commission, dated April 15, 2019
4. Plan entitled, "Sheet A5.0, Exterior Elevations" for Moe's Southwest Grill, prepared by Thomas F. Tedrow, AIA. dated March 29, 2019
5. Plan entitled, "Sheet EQ-1.0, Equipment Plan" for Moe's Southwest Grill, prepared by Thomas F. Tedrow, AIA. dated March 29, 2019
6. Plan entitled, "Sheet OP-1, Overall Site Plan", prepared by BL Companies, drawn at a scale of 1"=40', revised to April 12, 2019
7. Letter from Milone and MacBroom, Inc., dated 5/10/2019
8. Testimony from the applicant, Commission and City staff at the regularly held meeting on May 21, 2019

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. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.
4. 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.

C. Starbucks

Atty. Dominick Thomas, Esq. of Cohen and Thomas and John Schmitz, PE from BL Companies were present to answer questions on the application.

The applicant has addressed the comments received from Milone & MacBroom Inc. letter dated April 23, 2019. Three changes were noted. First, the angled parking has been changed to perpendicular parking; second, the turning radius has been modified for better flow and third, the sidewalk has been extended with a crosswalk for better access to the dumpsters by employees.

MOTION by Theodore Estwan and second by Raul Sanchez -

Application: Site Plan Approval

Red Raider Derby, LLC. – Proposed Coffee Shop with a Drive-Through Window - 40-60 Pershing Drive
Assessors Map 7-10&12, Lot 17

Application, the Derby Planning & Zoning Commission hereby approves the Application for Site Plan Approval for the City of Derby on property shown on Derby Assessors Map 7-10&12, Lot 17 subject to the conditions outlined below:

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 / and/or Site Plan Approval with a copy of the fee check and Statement of Use
2. Prototype floor and elevation plans for Starbucks dated January 17, 2017
3. Review letter from Milone and MacBroom, Inc. dated 4/23/19
4. 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 April 12, 2019, 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
5. Testimony from the applicant, Commission and City staff at the regularly held meeting on May 21, 2019

This approval shall be subject to 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 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.
- 3. 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.
- 4. 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.
- 5. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.
- 6. 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. 73-75 Chatfield Street – South Central CT Regional Water Authority – Application for a Special Exception – discussion and possible action for a 1.0 million gallon water storage tank for a lot 2 (school property) and a proposed parking lot for lot 4 (St. Peter & Paul property).

This application has been continued to June 18, 2019.

B. Continued discussion on proceeding with a **PDD Zone addition** to the City of Derby

Rebecca from Milone & MacBroom Inc. reviewed the Core Planned Development District Zone (C-PDD Zone) language. This addresses parcels within the downtown district with acreage of $\frac{3}{4}$ acres or more. Two hundred and forty three (243) parcels have been identified. As the parcels would likely be small, enabling a phased plan may not be appropriate although if multiple parcels were combined creating a larger area then uses such as a parking garage may open the discussion on phasing. The C-PDD zone

is intended for uses to be located on parcels of real property of sufficient size to accommodate compatible and cohesive land uses that: (a) increase economic vitality in Downtown Derby and the Mill Design District, in particular by promoting redevelopment (b) encourage mixed-use development with diverse housing opportunities that support locally-oriented businesses and cultural institutions; (c) promote a variety of retail, service and related commercial uses to serve both local needs and attract on a regional basis; (d) coordinate the placement, location and interconnectedness of buildings that maintain the architectural character and appearance of the Downtown and historic mill area and (e) promote an attractive pedestrian environment.

The Suburban Planned Development District (S-PDD) purpose and intent is to provide a procedure for allowing flexible land use and design for parcels outside of the City Center and Mill Design District. The minimum size would be two (2) acres and shall have access to public sewer and water. There are far fewer parcels that would meet the criteria. Just as Marshall Lane Manor explored unique options for reusing the existing structure and parcel, this district would seek adaptive reuse of other parcels in the City.

Members reviewed the materials presented. The C-PDD could serve to enhance the downtown and is similar in intent to the lower Main Street District that was recently adopted. Members were hesitant to explore the S-PDD at this time. Possibly, expanding uses in a special exception could speak to enhancements without the creation of a specific district. The desire of considering the creation of a district is to stimulate growth in the City. Rebecca indicated that any applications under these districts would certainly be market driven. She suggested that the City might want to call out what the Commission would consider contrary to the Plan of Conservation and Development identifying what would be discouraged. It was decided that the C-PDD draft continue to be refined whereas the S-PDD be set aside for the moment.

11. Updates on Previous Approvals

Members questioned the status of the culvert by Burger King on New Haven Avenue. Derby Inland Wetlands Agency has approved an application for replacement of the culvert as the existing structure was repaired but is failing. The City Engineer is working with DEEP and the Army Corp of Engineers to finalize details of its replacement.

The City has not been able to obtain access to DBasin on Lanzeri Court. This is being intensely pursued. It was suggested that all basins approved within the City would benefit from inspection or review.

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 April 1, 2019 to April 31, 2019:

Invoice #90984 dated May 9, 2019 for review of App – Asian Bistro Restaurant	\$822.50
Invoice #90985 dated May 9, 2019 for April public hearing prep and PDD changes	\$ 1,291.95
Invoice #90986 dated May 9, 2019 for review of App – 75 Chatfield – RWA tank	\$910.70
Invoice #91004 dated May 9, 2019 for review of Spec Exception Red Raider Derby Ilc	\$551.25
40-60 Pershing Drive	
Invoice #91005 dated May 9, 2019 for review of Spec Exception/zone change	\$218.75
49 Pershing Drive LLC	
Invoice #91006 dated May 9, 2019 for review of Site plan review Savin Brands	\$393.75
44 Pershing Drive	

13. Adjournment

MOTION by Theodore Estwan and second by Raul Sanchez. Move to adjourn the meeting at 8:22 PM. Motion passed unanimously.

Respectfully submitted;
Karen Kemmesies

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