Planning and Zoning Commission
City of Derby

Theodore J. Estwan, Chairman	**Steven A. Jalowiec, Vice Chairman**	**David Kopjanski**
Richard A. Stankye	**Albert Misiewicz**	**Glenn H. Stevens**
Raul Sanchez	**Cynthia Knopick – Alternate**	**Raymond Sadlik - Alternate**

Special Meeting Minutes - 7:00 p.m. – Tuesday March 26, 2019

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

Audio recording of this meeting will be available at www.derbyct.gov under the calendar item and in the Town Clerk's office.

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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 were Ted Estwan, Jr., David Kopjanski, Richard Stankye, Albert Misiewicz, Raul Sanchez, Cynthia Knopick, Steven Jalowiec, Raymond Sadlik and Glenn Stevens.

4. **Communications**
   Mr. Estwan read a letter of resignation from Richard Stankye.

5. **Public Portion**
   Attorney Willinger – spoke regarding the THC and he commented on page 2 of the previous month's meetings. He said he was misquoted and had said that 1999 was the last time outdoor events where held.

   Mr. Ponzillo – spoke regarding THC. It's in a residential area and there are many people against it. People are not against revenue, but this is a residential area. Taxpayers of the area are being directly affected.

   A resident of 238 Hawthorne Avenue – spoke regarding the water tank. Mr. Estwan asked her to reserve her comments for the public hearing.

6. **Approval of Minutes-** 2/19/19 regular meeting
   Motion to approve by Mr. Jalowiec and seconded by Sanchez Mr. Kopjanski abstained. Motion carried.

7. **Receipt of Applications**

Move to accept application from 656 New Haven Avenue Tenku Wasabi Asian Bistro for a Site Plan by Mr. Jalowiec, seconded by Mr. Misiewicz and the motion carried.

8. Public Hearing

A. 49 Pershing Drive, LLC-Shop Rite Plaza -Application for a Zone Text Amendment to permit electronic signs in the Business-1 Zone for shopping centers with 100,000 SQ. FT. or greater of building Sections 195-67.S(1)(a)(g), Sections 195-67.S(2)(a,c,d) & Section 195-71. C (4).

B. 49 Pershing Drive, LLC-Shop Rite Plaza- Application for a Special Exception for an electronic sign per (proposed) Section 195-67.S & 195-71.C.(4).

Attorney Thomas discussed the application for Shop Rite. Mr. McEvoy discussed multiple considerations regarding advertising and the message display dimension. 70 sq ft per side as opposed to 200 sq ft.

Keith McLiverty – discussed the electronic signage at the middle school. The signage couldn't change for 2 minutes. He asked if the city could make the frequency uniform throughout the city. Attorney Thomas said it could be hanged on the first page. Mr. McEvoy said that at the time the superintendent said it wouldn't need to be changed for 15 minutes. Mr. McLiverty said that is foolish. There is more traffic on 34 than the high school. Mr. McEvoy said it's the commission's judgement. Mr. Estwan said he isn't opposed to making it uniform. Mr. Kopjanski asked if there were industry standards. Mr. Estwan said there isn't. Attorney Thomas suggested making it 30 seconds citywide.

Public portion was closed at 7:34 PM.

C. 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 lot 2 (school property) and a proposed parking lot for lot 4 (St. Peter & Paul property).

Rose, the Director of capital planning with Regional Water Authority gave a presentation on the storage tank. Gary Roberts discussed this further.

Mr. Estwan said this is the location the board was pushing for previously. He is happy that they were able to propose a tank for this location including lighting and security. Mr. Roberts discussed the motion detecting lighting and fencing.

Mr. Frank Pepe – 69 Harrison Avenue – spoke regarding the increase of open space and this is the best property for the tank.

Mr. McLiverty stated his concerns regarding the water flow to the new middle school site. They paid $5-600,000 for the water flow for the middle school. He would like the Regional Water Authority to pay back the ½ million dollars the taxpayers incurred.

A resident of Bank Street asked why they can't use the silver hill tank. Rose said it is a different service area.

Greg Cava of Roxbury – (Attorney representing Sharlene McEvoy) spoke at length regarding headlight issues and presented the board with multiple documents.

Dr. Steve Danzer – spoke at length regarding conservation, migratory birds and natural resources that will be affected. He forwarded his findings to the Commission.

Mr. Charmel from Griffin Hospital spoke in support of the program and discussed the loss of water service to the hospital and the catastrophic nature of that event.

Mr. Sampson the BOA president – is in favor of the tank and spoke regarding the presentations and the public safety aspect.

A resident of Summit Commons on Coon Hollow Road – addressed concerns regarding the street she lives on and that it is becoming a very commercial street.

Ms. Marinelli- 116 Chatfield Street – Understands the need for the tank, but she doesn't want to be looking at this tank.

Carol of 238 Hawthorne Avenue – she stated she would like to not see this tank at all and it is an insult to people who drive along this street. In 2013 a list of 100 different sites were provided. She wants to know why none were available. Mr. Estwan said the water company did address that concern and this was a top site that would address the needs of this service area.

Dorothy Marinelli – spoke regarding her family owned home and isn't in favor of this tank. Mary Lou Marinelli assisted in speaking with Dorothy. This tank would be directly in view of their home and they do not want the tank in this area.

Mr. Baklik spoke as a resident – he lives down the street from the prospective site. Public safety is major concern. If there is a fire, the water pressure is not sufficient.

Mr. Estwan moved to continue public hearing next month. Mr. Jalowiec seconded and the motion carried.

9. **New Business:**
   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 lot 2 (school property) and a proposed parking lot for lot 4 (St. Peter & Paul property).

      Mr. Estwan moved to table, Mr. Jalowiec seconded and the motion carried.

10. **Old Business:**
   A. **49 Pershing Drive, LLC-Shop Rite Plaza -**Application for a Zone Text Amendment to permit electronic signs in the Business-1 Zone for shopping centers with 100,000 SQ. FT. or greater of building Sections 195-67.S(1)(a)(g), Sections 195-67.S(2)(a,c,d) & Section 195-71. C (4).

      Mr. Estwan motioned to approve the following changes effective April 5, 2019:

Modifications to Sections:

195-67.S.(1)(g&h)

195-67.S.(2)(a,c,d,e)

195-71.C.(4)

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 presented unless as modified below. The effective date of the text amendment shall be ***April 5, 2019****.*

-Section 195-67.S(1)(g) as modified to state "To provide advertising signage for commercial shopping centers on a parcel with a total gross building coverage in excess of 100,000 square feet and where the Commission deems appropriate. Advertising shall be limited to goods or services sold on the parcel and to public service messages."

-Section 195-67.S.(2)(a) as modified to state "The use of electronic message displays shall only be permitted by Special Exception in the P and B-1 Zones. The message must have a minimum duration of thirty (30) seconds and/or be limited to a static display…"

-Section 195-67.S.(2)(c) as modified to state "…both side combined in the P zone and no more than seventy (70) square feet per side and no more than one hundred forty (140) square feet in total area on both sides combined in the B-1 zone"

-Section 195-67.S.(2)(d) as modified to state "…to any other lot line provided that in the B-1 zone if the property abuts a State Highway and the Right of Way line greater than fifteen (15) feet from the roadway edge of pavement the Commission may reduce the setback to one (1) foot from the State Right of Way line.

-Section 195-67.S.(2)(e) shall not be modified.

-Section 195-71.C.(4) as modified to state "…the Commission may permit signs differing from the standards contained in this section and electronic message displays as per Section 195-67S by granting a special exception…"

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

1) *Zone Text Change Application dated 12/31/2019*
2) *Referrals to Naugatuck Valley Council of Governments & South Central Connecticut Regional Council of Governments from Milone and MacBroom, Inc. dated 1/14/19*
3) *Letter from Naugatuck Valley Council of Governments Regional Planning Commission dated 01/14/2019*
4) *Letter from South Central Connecticut Regional Council of Governments Planning Commission dated 02/15/2019*
5) *Graphic depicting parcels within the B-1 zone that may be eligible for electronic message signs.*
6) *The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100 Car Naturalistic Driving Study Data, by the National Highway Traffic Safety Administration.*
7) *Effects of Electronic Billboards on Driver Distraction, by the Swedish National Road and Transport Research Institute, dated July 2012.*
8) *Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction, by the FHWA, dated September 2001*
9) *Article entitled "DOT Study Finds Digital Billboards Don't Distract Drivers", by thehill.com, dated 1/07/2019*
10) *Verbal Testimony from the Planning and Zoning Commission, members of the public and City Staff at the February 19, 2019 and the March 26, 2019 Public Hearings*

Mr. Jalowiec seconded and the motion carried.

B. 49 Pershing Drive, LLC-Shop Rite Plaza- Application for a Special Exception for an electronic sign per (proposed) Section 195-67.S & 195-71.C.(4).

Mr. Estwan motioned to approve the following:

Pursuant to Section 195-48 and 195-71 of the Derby Zoning Regulations, the Derby Planning and Zoning Commission finds the following:

1) *The application and supporting documentation as presented is in accordance with Sections 195-48 (subsections A through E) of the Derby Zoning Regulations.*
2) *The existing parcel, Assessors Lot 7-12, Lot 18 presently includes one freestanding sign and over 100,000 SF of building area.*
   The proposed plan will add an additional freestanding sign with an electronic message display in front of #49 Pershing Drive. The proposed sign will be located within 10' of the State Right of Way, but the Commission finds that a reduced setback is acceptable given than the roadway edge of pavement is greater than 15' from the Right of Way.
3) *The signage program is consistent with the purposed and intent of Article XI of the Zoning Regulations*
4) *The signage program would result in a more comprehensive arraignment and display of signs that could otherwise be accomplished under the standards of Article XI*

Motion: *Following review of the plans and supporting documentation submitted in support of this application, the Derby Planning & Zoning Commission hereby approves the Alternative Signage Program and Electronic Message Display on property shown on Derby Assessors Map 7-12, Lot 18 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 Statement of Use*
2. *Sketch of sign location superimposed on two untitled plans.*
3. *Plan entitled "Layout Option 1 – Double Face Monument", at a scale of ½"=1'-0", dated: Jul 10, 2018, prepared by: ABC3i.*
4. *Photo simulation of proposed sign, dated July 10, 2018, prepared by: ABC3i*
5. *Letter from Attorney Dominick Thomas to Chairman Ted Estwan regarding 49 Pershing Drive, LLC, Application for Sign Special Exceptions, dated January 11, 2019.*
6. *Plan entitled "Double Face Monument", at a scale of ½"=1'-0", dated: Jul 10, 2018, prepared by: ABC3i.*
7. *Plan entitled "Cross Section/Sign Location, Shoprite Shopping Center, Derby, CT", not drawn to scale, revised to 2/14/19, with an unknown author.*
8. *Pamphlet by Ingite Graphic Software.*
9. *Graphic Dimensioning existing freestanding sign*

With the following stipulated conditions:

1. *No permit from the Building Official/Zoning Enforcement Officer shall be issued prior to April 5th, 2019*
2. *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.*
3. *Prior to insurance of any Zoning Permit, the application shall obtain the services of a licensed surveyor to prepare a proposed Improvement Location Survey depicting the location of the sign, set no closer than one foot from the limit of the State Right of Way, prepared to Class A-2 accuracy.*
4. *The sign shall not exceed the dimensions and size show on the referenced documents.*
5. *Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission staff for review.*

Mr. Stevens seconded and the motion carried.

C. THC The Hops Company, LLC 77 Sodom Lane for a modification of Site Plan Approval – Discussion and possible action for reconstruction of area of

event building to add bathroom to code and indoor bar area, improve former bathroom building and other outbuildings, relocate and reconstruct stand-alone outside bar/concession stand. Related landscaping and site improvements. All work in upper event area.

Mr. Jalowiec and Mr. Kopjanski recused.

Mr. Kopjanski said he never wrote a letter in opposition to THC. He stands 100% by the statements he made in the affidavit provided at the last meeting.

Attorney Thomas spoke regarding the site plan.

Mr. Misiewicz addressed Attorney Thomas and said he will be voting against this modification plan. He feels that the addition of the kitchen will increase business and parking. His opinion is that they abandoned the building and this is an increase in use. Nothing addresses the parking issue and he will not vote in favor of anything for THC until the parking is addressed. Attorney Thomas said they are rebuilding an existing kitchen, it is not new.

There was a detailed discussion regarding a revision to the site plan that will reflect the total square footage of the modernized new building will not exceed the sum of the previous square footage of the enclosed buildings that were on the property of 908 square feet so that there is zero increase. This is something that the PZC discussed and requested from the applicant which they agreed to incorporate and limit the size of the modernized addition to no more than 908 square feet.

Mr. Estwan moved to approve the following:

The Derby Planning & Zoning Commission finds the following:

1) *The buildings identified by the applicant that were demolished as a result of structural damage and not immediately repaired or replaced does not constitute an intent to abandon the use of those structures*

2) *The application proposes to reconstruct a kitchen, relocate two concession stands, and repurpose an existing bathroom. The proposed addition and building relocations will not result in an increase in the building coverage from the historical use of the parcel, nor will they expand on the non-conforming use of the parcel from prior conditions.*

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 THC, The Hops Company, LLC on property shown on Derby Assessors Map 3-2, Lots 10 & 11.

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

1. *Application for Special Exception Use and Site Plan Approval with legal description of the parcel(s)*
2. *Statement of Use*
3. *Site Plans entitled "Catering Hall, Marshall Lane and Sodom Lane, Derby, Connecticut, Prepared for The Hops Company, LLC," dated January 9, 2019, revised to February 18, 2019, prepared by James R. Swift.*
4. *Architectural plan entitled "Floor Plan, The Hops Company, 77 Sodom Lane, Derby, CT " dated: January 9, 2019, prepared by CAH Architecture and Design, LLC, with attached perspective renderings*

5. *Plan entitled "Topographic Survey, Grassy Hill Lodge, Property Located at 77 Sodom Lane and 11 Marshall Lane, Derby, Connecticut, Prepared For T.H.C. The Hops Company, LLC), at a scale of 1"=30', dated: 08/31/2017, revised: 01/07/2019, prepared by: Lewis Associates.*
6. *Letter from Ryan McEvoy of Milone and MacBroom, dated 2/14/2019*
7. *Letter from Dominick Thomas of Cohen and Thomas dated 2/18/2019 with attached exhibits*
8. *Petition entitled "Help Support The Hops Company"*
9. *Letter from Bill Purcell of the Greater Valley Chamber of Commerce, dated 1/15/2019*
10. *Graphic depicting square footage of building additions, historical building square footages, and square footage of buildings to be removed.*
11. *Affidavit signed by Martha Dulla dated 3/08/19*
12. *Affidavit signed by David Kopjanski dated 2/14/2019*
13. *Historical site photographs taken by Anita Dugatto*
14. *Historical aerial photographs of the site from 1985/1986*
15. *Testimony from the Applicant, City Staff and the Commission at the regularly held meetings on February 19, 2019 and March 26, 2019*
16. Letter from Dominick Thomas of Cohen and Thomas dated 3/26/2019

Mr. Stevens seconded and the motion carried.

- Ted Estwan, Jr. - Yes
- David Kopjanski - Recused
- Albert Misiewicz - No
- Raul Sanchez - Yes
- Cynthia Knopick - Yes
- Steven Jalowiec - Recused
- Raymond Sadlik - No
- Glenn Stevens - Yes

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

Mr. Sadlik left at 11:06 PM

A public hearing will be held next month.

11. Updates on Previous Approvals

Carl stated that the agreement with Life Touch fell through so they are going back to their original plan. There is an issue with city owned property on Factory Street and the former Jacobs property. He stated that the city's administration is trying to work that out.

12. Payment of Bills

Mr. Estwan motioned to approve the payment of invoices as appropriate. Mr. Stevens seconded and the motion carried.

13. Adjournment

Mr. Estwan motioned to adjourn at 11:35 PM, Mr. Jalowiec seconded and the motion carried.

Respectfully submitted,

Terri Kuskowski

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