

Planning and Zoning Commission

City of Derby

Members:

Theodore J. Estwan, Jr., Chairman
Steven A. Jalowiec, Vice Chairman
David J. Rogers
Richard A. Stankye
Albert Misiewicz
Glenn H. Stevens
Raul Sanchez
Cynthia Knopick (Alternate)

Planning and Zoning Commission Meeting and Public Hearing Aldermanic Chambers, City Hall 1 Elizabeth Street, Derby October 16, 2018

AGENDA:

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., Steven Jalowiec, David Rogers, Richard Stankye, Albert Misiewicz, Raul Sanchez, and Cynthia Knopick. Glenn Stevens was absent. Vincent McDermott was in attendance since Ryan McEvoy was not available.

4. Additions, Deletions, Corrections to the Agenda

No changes were made.

5. Correspondence

No correspondence was received.

6. Public Portion

Mayor Dziekan - disseminated pictures and stated that this is what happens when things are approved by the Commission. Hopefully, the Board does the right thing.

Mr. Estwan stated that the Commission would not be specifically discussing The Hops Company during public portion and the distributed pictures would not be added to the record.

Mr. Ponzillo 32 Belleview Drive –stated that the public thought the public hearing was continued. Mr. Estwan stated that public hearing was closed at the last meeting and motions were made and seconded. Mr. Ponzillo asked how much weight their comments carry towards. Mr. Estwan said he can't discuss it. Mr. Ponzillo asked when it became a dictatorship. It's a democracy.

Mike Alberta of 325 David Humphreys asked what tabled means. Mr. Estwan stated that the commission decided to deliberate this month. Nothing has been decided. The comments were made as a matter of record and will be discussed tonight. They have not discussed this yet. That is what they are here to do tonight.

Angelo Mangillo – John Street – He understands that the commission needs to discuss the issue, but the public should decide yes or no. What about the taxpayers of Derby? These comments need to be taken into consideration.

7. Approval of Minutes 9/18/18 Regular Meeting

Motion to approve by Mr. Rogers, seconded by Mr. Sanchez and the motion carried. Mr. Jalowiec abstained.

Approval of the Minutes 10/2/18 Special Meeting

Motion to approve by Mr. Rogers, seconded by Mr. Stankye and the motion carried. Mr. Stankye and Mr. Jalowiec abstained.

8. Receipt of Applications

No applications were received.

9. Public Hearings

A. Application to approve zone text amendment to create a NEW Planned Development District Zone targeted for the existing CDD zone, Article III, Section 195-24, whereby existing Article III, Section 195-24, “Zoning Map”, will remain, but be renumbered to Article III, Section 195-25 (“Application”) by Downtown Derby LLC.

Chris Smith, a land use attorney for Shipman and Goodwin, Steven Lepore, Carl Nielsen, Rob Rowilson, and Kent McCoy presented the Planned Development District.

A packet was distributed to the Board to be added to the record.

The purpose of the PDD zone is to allow the Commission more flexibility. A zone change, special exception and site plan review are needed for any plan. Within 2 years of the approval of the PDD zone, a site plan must be submitted by the applicant. Extensions can be granted in one-year terms for up to five years. Minimum requirements are that the zone must be 5 acres, in the downtown derby area south of 34 and access to main street. A master plan of development would also be included. Modifications of a substantial or material change would be subject to a new application. If the commission determined the change was not substantial or material then it would be subject to review and a public hearing would not be necessary.

Mr. Nielsen gave a presentation on what they would like to do with the area. The plans reflect what the residents of Derby suggested and want based on the meeting and charrettes that they attended.

Mr. McCoy – specializes in historic restoration and gave a presentation on the “look” of the buildings. They referred to old photographs of Derby housing, restaurants, etc. The sidewalks would be larger to provide outdoor eating. He discussed amenities for the housing such as dog washing stations and bicycle storage.

Mr. Rowilson spoke about the vision they have for downtown.

Mr. Lepore, a partner in Downtown Derby LLC., thanked the commission for their consideration.

Mr. McDermott stated that the items on the application that McBroom had concerns with all have been addressed.

Mr. Estwan asked if any thought was given to expanding the south side to the north side. Mr. Smith stated that the Green has a lot of moving parts with the historic buildings and they felt they would get tied up in that and delayed. They are hoping to focus and move forward with the South side at this time as it is a clean slate.

Mr. Estwan asked about the time table for the RT 34 project. They are hoping to coincide with the opening/finalization of RT 34. Mr. Estwan asked why they proposed a 4 story building. Steve stated that historically that is what was here. Ron said that construction changes after 5 stories. They tried to reflect and embrace what was here.

Mr. McDermott stated that the commission has had concerns with the properties around the green. He stated that the structure of this regulation is easily modified to enable applicant to present proposals on a smaller scale.

Charles Sampson, 6 Commodore Hull Drive – he echoed the applause on this presentation. This group has brought conceptual drawings and an eager developer. They should be commended. He asked the commission to do their due diligence.

Mr. Ponzillo, 32 Belleview Drive. He was happy to see something positive. He has concerns with 400 units how can they support the cars and parking. Where are they going to go?

Mike Alberta, 325 David Humphrey's Road. Take a bite out of this apple.

Maureen Kelleher, Belleview Drive – she likes the proposal. She is concerned with the multi-level income and derby already has low income housing and would like higher level income.

Carmen DiCenso, 7 Jeanetti Drive – he's seen Carl and Rob more than he has seen his family. He stated they certainly did their work. He thanked the commission for hearing their application. He said the RT 34 project is expected to begin in June of 2019. He hopes that the Board passes this tonight.

Mr. Estwan asked Chris to respond to some of the concerns. A traffic study would be needed with any application from a developer. This is not an affordable housing proposal. The housing rates were market rate housing. This is a conceptual plan of what a developer could propose.

Mr. Mongillo said a zone change should be a referendum vote.

Mr. Estwan motioned to close public portion at 8:35 pm, Mr. Stankye seconded and the motion carried.

10. New Business

A. Application from Custom & Classic Paint, LLC for 1 Park Avenue for use as a Classic Auto Restoration facility in the MDD Zone.

Miles Birch of Shelton. Stated that his business is self-owned and it is operated by himself and one other person. This is not an off the street auto repair facility. They do custom body restoration and paint jobs.

The owner of the property consented to Miles Birch operating his business at this location.

Mr. Estwan motioned to approve the application with conditions as stated below, Mr. Stankye seconded and the motion carried.

CITY OF DERBY - PLANNING & ZONING COMMISSION
October 16, 2018

Application: Miles Birch

Application for Site Plan Approval - Custom & Classic Paint, LLC
1 Park Avenue

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 Miles Birch on property shown on Derby Assessors Map 9-4, Lot 12 subject to the following conditions:

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

1. Application with Statement of Use
2. Plan entitled 'Land Transfer Map, Property Survey of Property Located at #1 Park Avenue and North Avenue, Derby, Connecticut, Prepared for Father McKenna's St, Vincent Depaul of Shelton, Inc.', dated October 23, 2012, shown at a scale of 1"=20', (although plan appears to have been reduced), prepared by Lewis Associates.
3. Plan depicting Floor Space of 1 Park Avenue, Derby, undated and drawn at an unknown scale.
4. Letter from Milone and MacBroom, Inc, dated 10/12/2018
5. Testimony from the applicant at the regularly scheduled meeting on 10/16/18.
6. Consent from the Owner

With the following stipulated conditions:

1. Any modifications to the above referenced drawings shall be submitted to the Planning & Zoning Commission for review and action if necessary.
2. All proposed signage shall be reviewed by the Derby Zoning Enforcement Officer for compliance with the Derby Zoning Regulations
3. All handicapped parking shall be provided in accordance with the CT State Building Code.
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.

B. Discussion / Possible Action – Application to approve a zone text amendment to create a New Planned Development District Zone targeted for the existing CDD zone, Article III, Section 195-24, whereby existing Article III, Section 195-24, “Zoning Map”, will remain, but be renumbered to Article III, Section 195-25 (“Application”) by Downtown Derby LLC.

Mr. Estwan motioned to approve the application as presented. This amendment is consistent with Derby’s comprehensive plan of zoning; is consistent with the policies of the POCD and the plan for downtown Derby; and is in the interest of the public health, safety, and welfare of Derby. This amendment will take effect on November 16, 2018. Seconded by Mr. Jalowiec and the motion carried.

Mr. McDermott stated that the Commission is the only body in the City of Derby that is entitled to make zoning changes. There is no option for a referendum.

Mr. Estwan motioned to take a 5 minute recess. Mr. Jalowiec seconded and the motion carried.

Mr. Jalowiec recused himself from the remainder of the meeting at 8:54 PM.

The meeting resumed at 8:58 PM.

11. Old Business

A. Discussion and possible action – Application for a zone text change, Section 195-16(A) to create the Derby Development District Zone by THC, LLC.

Mr. Estwan stated that if the commission does nothing, the residents will still have the same concerns Thursday, Friday and Saturday. The commission will not be able to do anything to help them.

This zone change doesn’t give an automatic approval. It simply allows someone to submit a site specific application. That would be held in a public hearing. He would like the engineer to review other areas within Derby that would be affected by this zone change. The residents concerned cannot be addressed any other way than through this DDD. The business is stuck the way it is. The commission is trying to determine how to resolve the issues of the business and the residents. They can’t expand parking or do anything because it’s nonconforming. If the zone change was approved then they would be able to work with the business to compromise. If the business doesn’t provide a site application that the commission agrees with then it is denied. If a PDD zone was applied at this location and the ownership changes, what happens to the PDD approval? The attorney stated that it runs with the land/property or if the new owner would like it modified then start the process from the beginning with a new plan. Conditions can be added to the special exception such as cleaning up the area and it can be added that they are responsible for checking on certain surrounding properties. These conditions are reportable and enforceable by the zoning enforcement agent.

Mr. Stankye – said that the business has grown more than anyone expected. The owner knew it was a nonconforming business in a residential zone. There is a lot missing from this zone change. They need to know where this zone can be applied. If this is denied the applicant has the right to go through the appeal process through Superior Court.

Mr. Misiewicz – Shelton has a similar zone that they have been using since 2006. It gives guidelines to the applicants and commission and provides clarity for the residents. He would like the commission to look into their zone text as what has been presented it too vague.

Mr. Estwan reiterated that if the Commission does nothing, they cannot help the residents with any concerns that they have.

Mandatory action is need 65 days after the close of the public hearing so next month they can schedule a special meeting.

12. Payment of Bill

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

13. Adjournment

Mr. Estwan motioned to adjourn at PM, Mr. Stankye seconded and the motion carried at 9:38 PM.

Respectfully submitted,

Terri Kuskowski

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