

**Cuyahoga Falls City Council
Minutes of the Planning & Zoning Committee**

November 19, 2018

Members: Paul Colavecchio, Chair
Mike Brillhart
Russ Iona

Mr. Colavecchio called the meeting to order at 6:30 p.m. All members were present.

Legislation Discussed:

Temp. Ord. A-79 (Sub. Dated 11/13/18)

Temp. Ord. A-104

Discussion:

Temp. Ord. A-79 (Sub. Dated 11/13/18)

An ordinance authorizing and approving the conditional zoning certificate for Darby's on 59 to renovate and operate a brewpub at 2762 Front Street (Parcels 02-16420 and 02-16421) in an E-1 Employment District, and declaring an emergency.

Mr. Guerra, Planning Director, stated that Project CZ-18 00043 Darby's on 59 is proposing a facilities renovation and expansion at 2762 Front Street for brewery and dining. This use requires Conditional Zoning in the E-1, Employment District per Table 1131-1: Zoning Districts and Uses, of the City of Cuyahoga Falls General Development Code. The Commission considered this item on 9/18/18 and 10 16 18. Setback variances of 0' from the rear and side property lines were granted by the Board of Zoning Appeals on August 8, 2018. The applicant, Joshua Speas, owns both the project properties and Darby's on 59.

On October 16, 2018, the Planning Commission approved Project CZ 18-00043 for a Conditional Use Permit for use as a Bar as defined by the City of Cuyahoga Falls General Development Code. Approval of proposed brewery dining expansion related to Darby's on 59 at 2762 Front St. is based on findings herein and following conditions:

1. That a finalized parking agreement easement (or property acquisition) to meet the minimum number of required spaces per city standards (49 spaces) and subject to Planning Division review and approval, be submitted in writing prior to site work or construction.
2. Parcel No. 02-16420 be combined with principal parcel 02-16421, 2762 Front Street.
3. Adherence to Staff Report department comments.
4. Adherence to all Cuyahoga Falls General Development Code standards including Chapter 1144 General District Design and Chapter 1145 Landscape Design.

Mr. Colavecchio stated Darby's is a great establishment, and, hopefully, this all works out now. Mr. Iona stated that he is excited they are coming on board and thanked Mr. Speas for staying in Cuyahoga Falls.

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Mr. Gorbach asked for the actual language and duration of this ordinance. Mr. Guerra stated that duration is based on a couple things: The restaurant staying there and, also, the need for parking. There will be easement put on the adjacent property and the only way they could get out of it is to take that easement off the deed. Mr. Gorbach asked if the property should be sold during the time that Darby's is in business, does the easement follow that property. Mr. Guerra stated that that was correct. The new owner would have to honor that easement.

Mrs. Pyke asked if, without this easement, they couldn't move forward on this. Mr. Guerra stated that was correct. Mr. Miller asked whether the easement was on the south side and the west side, or just on the south side. Mr. Guerra stated it is across the street and also to the north, so it's east and north. Mr. Pallotta asked if Darby's employees are going to park across Front Street, and then walk over to the building and is there going to be a crosswalk. Mr. Guerra stated that those spaces will be valeted, and the valet would park the cars where these easements are. The employees are going to park off of Second Street where the other easement is.

Mr. Tom Sullivan, 447 Tallmadge Road, Cuyahoga Falls, stated that Darby's main building is still not handicap accessible. Mr. Joshua Speas, 2764-2762 Front Street, Cuyahoga Falls, stated that they are expanding into the existing building to accommodate handicapped access. Mr. James asked if there will be direct access from the brew pub into Darby's. Mr. Speas stated that access will only be through the existing patio. Mr. James asked if there could be a handicap-accessible ramp added to the front of Darby's for access to both the brewery and the restaurant. Mr. Speas stated that they explored that prior to the expansion. The issue is going to be bathrooms. They are very limited in space. The men's bathroom is in the basement at Darby's. The reason that they are expanding, so they can add two full bathrooms with two stalls, men's and women's. In 2017, they explored obtaining a variance up front for a ramp, but there were issues. Mr. Guerra stated that they are dealing with an older building that is difficult to make handicap accessible. Mr. James stated that there are people that like to go to restaurants without having to deal with a pub atmosphere. If they're handicapped, they wouldn't be able to enjoy the restaurant ambiance. Mr. Guerra stated that was correct.

Mr. Colavecchio asked if this was all good by the law and the codes regarding handicapped accessibility. Mr. Russell Balthis, Law Director, stated that he has not yet reviewed the specific plans for the Darby renovation. Depending on level of the renovations and the change of use, ADA can cause triggers to come into compliance. He stated that he would be happy to look into that, if Council would like, and issue an opinion. Mr. Reilly stated that he would like to see if they are in compliance and how they're in compliance currently.

Mr. Brian Grafton, FMD Architects, 2841 Riveria Drive, Akron, Ohio, stated that there are three different properties and two buildings on the two properties. The existing Darby's isn't really within the scope of the project in general. It is an existing condition, so there are special conditions that make exception to the ADA. As it stands, no work is being done on that existing facility with this project. The facility in question is the building behind them. They are making amends to make that ADA compliant via ramps, sidewalks and appropriate signage. Amendments are being

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made to accommodate many of these things and meeting code, as well. Mr. Colavecchio asked for the timetable for construction or improvement. Mr. Speas stated that once they have approval, they will go back to the Building Department for the final permit. They anticipate being able to break ground by January 1, 2019.

Mr. Billy Rhines, 1868 Windsor Street, Cuyahoga Falls, asked if it was a law that all establishments have to have coverage for people in wheelchairs. Mr. Guerra stated that the plans allow it for the new construction, but the old building doesn't seem to lend itself to handicapped-accessible ramps. They are not doing anything with the existing Darby's. It's grandfathered in, so that they don't need to be handicapped accessible. This new addition will allow them to have parking spaces, handicapped-accessible bathrooms and tables in the new restaurant area.

Mr. Colavecchio stated that he would like to move this to a vote, but wants some reassurances that they do comply with all the ADA requirements as they currently stand. Mr. Balthis stated that he will provide that information. Mrs. Pyke stated that, because of her personal circumstances, she is attuned to the need for handicapped accessibility. The legislation before Council tonight is not related to the actual Darby's Restaurant. They are voting on the brew pub they want to put behind it. It's opened a good conversation, but, by voting in favor of this, they are not turning our back on the need for handicapped accessibility at the original building.

Mr. Iona moved to bring out Temp. Ord. A-79 (Sub. Dated 11/13/18) with a favorable recommendation, second by Mr. Brillhart. Motion passed (3-0).

Temp. Ord. A-104

An ordinance authorizing and approving the conditional zoning certificate for Cheat Canyon Brewing Company to renovate and operate a brewpub at 461 Graham Road (Parcel 35-00671) in a C-1 Commercial District, and declaring an emergency.

Mr. Guerra stated that Project CZ-18-00054, Cheat Canyon Brewing Co., is proposing redevelopment of a former machine shop at 461 Graham Rd. for a brew pub and restaurant with indoor seating for 100 customers. This use requires Conditional Zoning in the C pl, Commercial District per Table 1131-1: Zoning Districts and Uses, of The City of Cuyahoga Falls General Development Code.

On November 6, 2018, the City of Cuyahoga Falls Planning Commission approved Project CZ-18 00054, Conditional Use, Bar, at 461 Graham Rd. Approval is based on the stated findings of fact and meeting overall intent of the conditional use and general development code of the city, subject to the following conditions:

1. That maximum seating not exceed that which minimum parking spaces can accommodate. The site calls for 52 spaces, which could support 104 fixed seats per Table 1134-22: Off-Street Parking.
2. Any site or use impacts different or in addition to the operations as proposed may be subject to Planning Commission review and recommendation to Council for approval.

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3. Excessive complaints of noise, odors, site and adjacent area impacts, or other violations of General Development Code and city standards may lead to revocation of Conditional Use Permit.

Mr. Brillhart stated that this is going to be a fabulous, well-designed addition to the community, and he looks forward to its opening. The traffic study indicates that's a fairly busy corner of Graham Road and Bath Road. He asked if there would be any kind of traffic issues over there. Mr. Tom Nicholson, 2040 17th street, Cuyahoga Falls, stated that one way they're trying to alleviate some of the issues is to create a one-way only off of the Graham Road exit at Bath Road, to create a single directional to alleviate coming up the steep driveway off Graham Road and turning left. Mr. Iona asked if the ingress and egress is in the plan. Mr. Nicholson stated that Graham Road would be entrance-only. Mr. Colavecchio asked if the you could make a left going onto Bath Road. Mr. Nicholson answered in the affirmative. He stated that they will be a 3 p.m. to 11 p.m. operation, so most of the traffic coming out of the parking lot would be later in the evening when traffic isn't as heavy throughout that area.

Mr. Gorbach stated that it was a State liquor store and a budget store before this, and that there was traffic there more than just between 3 p.m. and 11 p.m. They are now making it entrance-only off of Graham Road, so that only makes a non-problem situation even better. Mr. Gorbach inquired about the Planning Commission Number 2 stipulation that states, "Any site or use impacts different or in addition to the operations as proposed, may be subject to Planning Commission review and recommendation to Council for approval," and asked why the Planning Commission picked this project to put that statement in there. Mr. Guerra stated that that language is for every conditional-use permit. They are going to also be bottling some beer, so want to make sure, once they start that process of bottling beer and distribution, that it doesn't get loud. Mr. Nicholson stated that they are building a 15-barrel brewhouse slightly larger than some of the existing brew pubs around there. The objective there is that they would be canning for distribution, so they will have some traffic in there throughout the day for deliveries and pickups. They will be doing that inside the building, so noise shouldn't be a concern, but there will be some trucks in and out of the parking lot. This is at a time when the restaurant is not open. Mr. Gorbach stated as long as it fits the environment of that location in the city and so long as the language in here fits and is apparent to all parties moving forward, that's fine.

Mrs. Pyke asked what excessive compliance means. Mr. Guerra stated that, in the code, that is noise, dust and odor. If they get a complaint that it's excessively noisy, they will go out there and see if it is excessively noisy. This was a machine shop for 40 or 50 years, so that was there when it was a machine shop. Understanding their operation, he doesn't think it's going to be a problem, Mrs. Pyke asked if it was subjective. Mr. Guerra stated that, as the Planning Department, they do this all the time. If there is a complaint coming from the industrial section, they will go out there and find out what this noise is, and then work with them to reduce the sound. Mr. Colavecchio stated that, on the east and south, it's commercial, but there's residential from the west and the north.

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Mr. Brillhart moved to bring out Temp. Ord. A-104 with a favorable recommendation, second by Mr. Iona. Motion passed (3-0).

The meeting adjourned at 7:06.