

# Historical society taking Bethlehem to court over \$10M tall building



Dennis Benner's development company wants to build a nine-story mixed-use building with commercial space and 37 apartments at West Fourth and Vine streets in south Bethlehem. (HOWARD KULP ARCHITECTS, CONTRIBUTED RENDERING)

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**T**he South Bethlehem Historical Society is taking the city to court over a nine-story building the society deems too tall for a historic downtown that grew up around the Bethlehem Steel plant.

The \$10 million structure, proposed by developer Dennis Benner, is expected to pump some life into a sleepy neighborhood that the city has tried to revitalize for decades. But society members fear it would eclipse the block celebrated nationally and locally for its two- and three-story buildings built between 1895 and 1950.

The society — led by board President Stephen Barron, also Northampton County's elected controller — asked a judge Tuesday to revoke City Council's approval of the project. The approval was required because the property, at Vine and East Fourth streets, is in a historic district.

The appeal filed by attorney Gary Asteak says, in granting that approval, the city did not follow "the spirit and

letter of the Municipal Districts Law and the City of Bethlehem Historic Conservation District ordinance."

In a nutshell, the society wants a do-over.

"I commend Mr. Benner for wanting to reinvest in the South Side," Barron said. "All we ask is for him to follow what every business that wants to pursue a venture in the South Side does: follow the rules of the South Side [Conservation] District."

Last month, City Council voted 4-2 to grant the project, at 24-30 W. Fourth St., a certificate of appropriateness required for such projects in the local historic district.

Benner's plans call for 37 apartments and a ground-floor restaurant. The building was designed with a tapered top floor, carefully designed windows, cornices and a rooftop garden to create an airy effect in an attempt to downplay its height, per the city's request.

At 96 feet, the building falls below the zoning cap of 150 feet in the central business district, but per historic guidelines the building has to be consistent with surrounding buildings.

Several tall buildings, including the Steel General Office building and 13-story Rooney Building, dot the landscape. But the buildings on the first block of West Fourth Street, like the one where Blue Star Cafe operates, are smaller in scale.

At several packed hearings before the advisory South Bethlehem Conservation District Commission and City Council, opponents argued Benner's project would destroy the feel of the downtown. But a majority of council members decided that the building fit in just fine, especially with all of the economic spinoff in a neighborhood targeted for redevelopment.

The project is in the new City Revitalization and Improvement Zone, which allows developers to use certain state and local taxes to offset construction costs.

Mayor Robert Donchez said he has not seen the appeal, but the city will defend its decision.

"It's a good project for the city of Bethlehem," he said.

When notified of the appeal, Benner said Wednesday that he was undeterred in his quest to invest in the South Side, but could not specifically comment on the suit because he hasn't seen it yet.

"Like every piece of litigation, there is responsible and irresponsible litigation," said Benner, who is also an attorney. "I can't imagine how this would fall in the realm of responsible. However, this is America. People can do whatever they want."

The list of appellants includes the society; Barron; Mary Pongracz, longtime historic district resident and a conservation district commissioner who cast a vote against the project; Dana Grubb, a past president of the historical society and retired city employee; and Jeffrey Zettlemyer, a South Side resident and retired city employee. Zettlemyer and Pongracz are also society board members. Grubb is on the advisory board.

From the proposal of the Lowe's Home Improvement Warehouse at the former Durkee spice plant to developer Abe Atiyeh's pitches for drug rehabilitation centers, Bethlehem is no stranger to legal appeals when it comes to redevelopment projects.

What's novel is that this one does not involve zoning law but a historic certificate of appropriateness, and it is the

volunteer society's first appeal.

The city has dealt with at least one other appeal involving a historic district project. In 1990, the city settled an appeal for \$4,000 with Dennis Scott Hudak, a city attorney who was denied a permit to improve his home. The Historic Architectural Review Board denied his request for a certificate in 1987.

Bethlehem, which has built a tourist industry on its historic architecture, was the first in the state to create a local historic district. It now has three districts, an ordinance that regulates old buildings that aren't part of those districts, six national historic districts, two national landmarks and one national landmark district.

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