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PLANNING BOARD

STAFF REPORT

REPORT DATE

December 28, 2022

MEETING DATE

January 11, 2023

Case #23-01 & 23-02: Site Plan Review & Special Permit

Owner: Alexandre El Tom, trustee of ZGA Realty Trust
56 Potomska Street
New Bedford, MA 02740

Applicant: Daly-Kenney Group, LLC
3021 Acushnet Avenue
New Bedford, MA 02745

Zoning District: Mixed-Use Business (MUB)

Site Area: 20,390± square feet

Overview: New construction of a fast-food restaurant with drive-through and associated site improvements, and a parking reduction.



Warehouse building to be demolished for new Dunkin Donuts.
Looking southeast from Potomska Street and Route 18 intersection.

Existing Conditions

The project site is currently occupied by an abandoned warehouse. The site was recently rezoned from Industrial B (IB) to Mixed-Use Business (MUB) for the purpose of redeveloping the site.

The site has 123± feet of frontage on South Water Street and 125+ on South Front Street.

A gas station and convenience store abuts to the north. South Water Street and Route 18 abut to the west. A commercial warehouse abuts to the south across discontinued Marsh Street and a fish processing plant abuts to the east across South Front Street.

The surrounding neighborhood consists of mostly industrial properties related to the Working Waterfront. A residential neighborhood is further west across Route 18.

Related Permitting

The applicant must obtain a Special Permit from the Zoning Board of Appeals for a fast-food restaurant.

Decision Criteria

The applicant is requesting a Site Plan Review and a Special Permit for a parking reduction. The ordinance provides the Board the following criteria for reaching a decision.

Site Plan Review Criteria

In considering Site Plan Approval for the proposed project, the Board must find that the plan meets the objectives identified in Section 5470 of the City's Zoning Ordinance (c.9) including:

- **Adequate access to each structure for fire and service equipment**
- **Adequate provision for utilities and stormwater drainage**
- **Site alteration shall be designed after considering the qualities of the specific location, proposed land use, the design of building form, grading, egress points and other aspects of the development so as to:**
 - Minimize cut/fill volumes, removal of 6" caliper trees and larger, removal of stone walls, displacement of wetland vegetation, extent of stormwater flow increase from the site, soil erosion and the threat of air/water pollution;
 - Maximize pedestrian/vehicular safety to/from the site
 - Minimize the obstruction of scenic views from publicly accessible locations
 - Minimize visual intrusion by controlling layout/visibility of parking, storage and outdoor service areas viewed from public ways and residential areas
 - Minimize glare from vehicle headlights and lighting fixtures
 - Minimize unreasonable departure from the character, materials and scale of buildings in the vicinity
 - Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling or containment of solid/liquid wastes and hazardous substances
 - Ensure compliance with the Zoning Ordinance
 - Minimize damage to existing adjacent public ways
 - Promote orderly and reasonable internal circulation within the site so as to protect public safety

Ordinance for Fast-Food Drive-Through Waste Receptacles

When deciding on the Site Plan Review, the Board may wish to consider the requirements outlined in Section 12-38 of the City's Ordinance (c.12) **Owner to maintain premises free of litter:**

- (a) The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized receptacles for collection.
- (b) Any commercial or business establishment in the city that distributes food or beverages from a drive-thru or drive-up window, so called, shall provide trash receptacles at or before the speaker or area where the customer is expected to order and at or after the window or place where the customer is expected to pickup order. Said receptacles shall be strategically placed so that vehicle drivers under usual circumstances are able to reach trash receptacles through the vehicle driver's window. Receptacles shall have a chute or device attached sufficiently thereto in order to the aid in accurately placing trash and litter into the receptacle.

Should any establishment required to provide trash receptacles under this section be unable to conform to the requirements due to circumstances relating to the layout of the drive-thru or some other reasonable logistical problem, they shall notify the health department, in writing, of the name and address of the establishment and detail the problem which prevents conformity and the establishment shall offer a reasonable alternative, if possible, as a good faith effort to meet the general purpose of this paragraph.

The health department shall have the authority to order an establishment to cease operating the drive-thru or drive-up window, so-called, when the provisions of this section are violated until such time as the establishment conforms to the provisions of this section to the satisfaction of the health department.

Special Permit Criteria for Parking Reduction

When deciding on the Special Permit for a parking reduction, the Board must consider the requirements outlined in Section 3120 of the City's Zoning Ordinance (c.9):

- Any parking or loading requirement set forth herein may be reduced upon the issuance of a special permit by the Planning Board if the Board finds that the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit. Such cases might include:
 - Use of a common parking lot for separate uses having peak demands occurring at different times
 - Age or other characteristics of occupants of the facility requiring parking which reduces auto usage
 - Peculiarities of the use which make usual measures of demand invalid
 - Availability of on-street parking or parking at nearby municipally owned facilities.
 - Where a special permit is granted, a reserve area, to be maintained indefinitely as landscaped open space, may be required sufficient to accommodate the difference between the spaces otherwise required and the spaces reduced by special permit. The parking/site plan shall show (in dotted outline) how the reserve area would be laid out in to provide the otherwise required number of spaces

Proposed Conditions

The applicant proposes to demolish the existing abandoned warehouse on site and construct a new Dunkin Donuts with one drive-through lane and a bypass lane. The applicant proposes an access easement through the northwest corner of the site from the abutting gas station. Additional site improvements include landscaping, lighting, and stormwater mitigation.

Staff Review

The table below outlines the proposed site changes and highlights items for discussion and the Board's consideration.

Parking	- The applicant proposes 13 parking spaces including 1 handicap space. The ordinance requires 25 parking spaces, therefore the applicant is requesting a Special Permit for a parking reduction of 12 spaces. The Board may wish to discuss the estimated number of in-store costumers with the applicant. - No loading space is proposed. - No bicycle parking is proposed.
Landscaping & Site Features	- The project site is entirely paved. The applicant proposes increasing green space to 20%. Landscaping is proposed at the west, south, and east of the site. - Site plans indicate a planting schedule including carpet cypress, junipers, boxwood, green vase zelkova, Persian ironwood, eastern redbud and weigela. - The project proposal indicates the speaker box will include volume control to minimize noise pollution.
Circulation	- The applicant proposes closing existing access on South Water Street. No access is proposed along discontinued Marsh Street. - Existing two-way access along South Front Street is to remain. - The applicant proposes an access easement at the northwest corner of the project site and the southwest corner of the abutting gas station parking lot. The Board may wish to review the status of the proposed easement with the applicant and condition that a copy of the recorded easement be provided. - Drive-through and by-pass circulation is proposed at the west of the site around the south of the building exiting to the east. - Pedestrian access is proposed from the South Front Street sidewalk to northeast entrance, with a crosswalk provided across the drive-thru exit lane. The Board may wish to discuss the sight lines for vehicles exiting the drive-thru relative to pedestrian safety. - The truck turn analysis shows maneuvers for an SU-30 vehicle. The Board may wish to discuss truck turns for an appropriately sized trash truck.
Traffic/Transit	It is within the Board's purview to request a traffic impact assessment be submitted.
Operations	- The applicant estimates serving 400 customers per day. - Proposed hours of operation are 5:00 AM – 10:00 PM daily, with five staff per shift. - Deliveries are proposed 5:00 AM – 7:00 PM. The project narrative indicates the operator of the facility controls the truck deliveries to coincide with off-peak times for the Dunkin' restaurant.

	The application indicates deliveries and waste removal will be scheduled to avoid disruption of the area and at off-peak hours of operation.
Stormwater	- The stormwater report indicates stormwater runoff from the site will be routed to deep-sump hooded catch basins with flow directed to subsurface stormwater infiltration recharge systems. - Three catch basins are proposed at the northwest, south, and northeast of the site. Stormwater will be filtered prior to flowing into the recharge systems under the pavement at the north, south, and east of the site. Planning staff defers to the Department of Public Infrastructure regarding compliance with the City's Stormwater Rules and Regulations.
Snow Storage	Site plans indicate snow storage on the lawn at the southeast of the site, beyond the bypass lane.
Waste Receptacles	- A screened dumpster area is indicated at the southwest corner of the site beyond the drive-through and bypass lanes, adjacent to the speaker box. - Two ten-foot-wide double swinging gates are proposed, with solid vinyl fencing at 6+ feet high. - Per Ordinance Section 12-38, trash receptacles are required in the drive-through at or before the speaker box and at or after the window. Trash receptacles are not indicated in the plans. The Board may wish to discuss the required receptacles with the applicant and condition trash receptacles be located as detailed in Section 12-38. - As part of this project, a dumpster enclosure is also proposed for the adjacent gas station site, located west of the proposed access easement. The gas station dumpster is currently unscreened (see photo below).
Utilities and Mechanical Systems	- The applicant proposes to reuse existing water and sewer lines if possible. Site plans indicate water and sewer connections at South Water Street, connecting to the proposed building at the southwest and northwest corners, respectively. Staff note fire service requires a separate connection from the water service main. - A new underground electrical connection is proposed at utility pole 645/13 across South Front Street to a proposed transformer sited east of the drive-through exit, connecting to the east-facing side of the building at the southeast corner. - Plans indicate the electrical connection to the menu board and speaker box at the southwest corner to be coordinated with MEP. - Plans indicate a proposed gas connection south of the site at discontinued Marsh Street connecting to the south-facing side of the building at the southeast corner. - A 1,000-gallon grease trap is proposed at the drive-through lane south of the building. - Architectural plans indicate mechanical units will be roof-mounted and screened (see below). - Architectural plans show the gas meter sited at the west side of the building and electrical box sited at the north side of the building.
Lighting	- Five ALED360 pole mounted lights are proposed around the site perimeter. - An internally illuminated LED ground sign is proposed (see below). - Internally illuminated LED wall signs are proposed at the north, east, and west elevations (see below).

	• Downcast, wall-mounted lights are proposed at the north, south and west elevations. • Recessed lighting is proposed at the east and north elevations (see below). • The photometrics plan indicates a diffusion of 5 to 2 foot candles around the building and through the parking lot with zero infiltration into the public way or abutting property. • The Board may wish to discuss hours of illumination with the applicant, typically no earlier than one hour prior to opening and no later than one hour after closing.
Demolition and Erosion Control	• The applicant proposes the demolition of an existing 7,800± square foot warehouse building and construction of one 2,150± square foot commercial use building. • The demolition plan indicates all existing asphalt is to be removed from the site. • Plans indicate pavement in South Front Street will be disturbed for underground electrical connections. • Plans indicate the replacement of the existing sidewalk along the South Front Street frontage, and the removal and closure of the existing curb cut on South Water Street. • The stormwater report indicates use of compost silt socks and other stabilization methods such as erosion netting and hydroseeding. • Litter and solid construction debris will be routinely monitored and removed as necessary. • Stabilization measures include hydro-seeding over vegetative support soil.
Architectural	• A gray with beige cement fiber board exterior is proposed with accent color channels. • An orange metal accent band with recessed lighting is proposed above the windows and entrances at the east and north elevations. Orange metal accent band is also proposed above the drive-through window at the south elevation. • A cement fiber board panel parapet is proposed to screen mechanicals.
Signage	• Plans indicate a 17.6 square foot internally illuminated wall sign and a location graphic under downcast wall lighting are proposed along the north elevation. • Plans indicate 22.3 square foot internally illuminated wall signs are proposed along the east and west elevations. • A message graphic under downcast wall lighting is proposed along the south elevation. • Directional enter/exit signs are proposed at the accessways. • A 25 square foot double-sided, internally illuminated ground sign is proposed at the southwest corner of the site. Plans indicate the sign will have a maximum height of 15 feet.
Master Plan	• The proposal is consistent with the Master Plan's goal to expand industry and employment opportunities in the city.

Interdepartmental Review Comments

As required under city ordinance, the case submittal documents were distributed to City Clerk, City Solicitor, Health Department, Inspectional Services, Engineering, Public Infrastructure, Conservation Commission, Fire Department and School Department.

At the time of writing this report, no departmental memos have been received.

Site Photos



Discontinued Marsh Street south of the project site.
Looking northeast from South Water Street.



Neighborhood south of the project site.
Looking southeast from Marsh Street & South Water Street.



Residential neighborhood across Route 18.
Looking southwest from the project site.



Existing site conditions east of the warehouse building.
Looking northwest from South Front Street.



Existing site conditions north of the warehouse building.
Looking west from South Front Street.



Existing conditions west of the warehouse building.
Looking north from South Water Street.



Abutting dumpster area at proposed easement.
Looking south from abutting parking lot.

Materials for Consideration

The engineered plan submission is shown as “Proposed Dunkin Donuts – 756 S. Water Street, New Bedford” dated 12/12/22 and prepared by CEC, Inc. of Raynham, MA. The plans are stamped by Steven D. Gioiosa, PE, date stamped received by the City Clerk’s Office 12/20/22. The plan set consists of the following sheets:

- CS-1 Cover Sheet
- LM-1 Locus Map
- EC-1 Existing Conditions
- SL-1 Site Layout
- DP-1 Demolition Plan
- ECP-1 Erosion Control Plan
- SG-1 Site Grading
- SU-1 Site Utilities
- LP-1 Landscape Plan
- LPP-1 Lighting/Photometric Plan
- DT-1 Detail Sheet #1
- DT-2 Detail Sheet #2

The architectural plan submission is shown as “Dunkin Brands PC# 357970” dated 10/5/22, and prepared by Aharonian & Associates, Inc. of Smithfield, RI. The plan set consists of the following sheets:

- K1.1 Proposed Floor Plan
- Sheet 2 Elevations

In addition to the submitted materials, the application has submitted waiver requests for the Board’s consideration as follows:

- 5451.a Site Layout: Allow locus map at 1” = 200’ scale. **Staff recommend granting the waiver.**
- 5451.b Topography & Drainage: Allow NAVD datum. Allow existing and proposed topography at 1’ intervals. **Staff recommend granting the waiver.**

Recommended Conditions



Special Permit. Having reviewed the submitted materials, planning staff offers the following recommendations for conditions to the Planning Board should it act favorably on the requested Special Permit approval for the project:

That the following **specific conditions** be applied to this decision:

1. The number of parking spaces shall be **tbd by the Board.**
2. The applicant shall adhere to the conditions of the special permit issued by the Zoning Board of Appeals.
3. That the applicant shall ensure a copy of the Notice of Decision bearing the certification of the city of New Bedford City Clerk, signifying no appeal has been made against the project’s approval, be recorded at the Registry of Deeds.
4. The applicant shall ensure that a copy of the recorded decision be provided for the Department of City Planning case file folder.



Site Plan Approval. Having reviewed the submitted materials, planning staff offers the following recommendations for conditions to the Planning Board should it act favorably on the requested site plan approval for the project:

That the following **specific conditions** be applied to this decision:

1. The applicant shall adhere to the conditions of the special permit issued by the Zoning Board of Appeals.
2. The applicant shall coordinate with the Department of Public Infrastructure to resolve all comments in their forthcoming memo.
3. The applicant shall provide a copy of the recorded access easement to the Department of City Planning prior to the issuance of a building permit.
4. Lighting shall be illuminated no earlier than one hour prior to opening and no later than one hour after closing.
5. Trash receptacles shall be provided and maintained per Section 12-38 of the City Ordinance.

That the following **general conditions** also be applied to both decisions:

6. The project shall be completed according to the plans, notes, reports, and specifications submitted for consideration and final approval by the Planning Board.
7. The project shall be undertaken in a manner consistent with any departmental memos received in relation to plan and placed on file for Planning Board consideration. The conditions of such memos shall be considered to be part of these conditions.
8. The applicant shall submit final plan revisions to the Department of City Planning in the following formats: one (1) -11” x 17” Plan Set and one (1) CD or USB with Plan Set in PDF format and shall ensure that these same plans are properly submitted to the Department of Inspectional Services.

9. The applicant shall ensure that a copy of the Notice of Decision, bearing the certification of the New Bedford City Clerk signifying no appeal has been made against the project's approval, be provided for the Department of City Planning case file folder.
10. The applicant shall present any proposed modification from the approved plans for consideration to the Director of City Planning for determination as to whether the modified plan must return before this Board for further review.
11. The rights authorized by the granted approval must be exercised by issuance of a Building Permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted, or they will lapse.
12. The developer and site contractor must schedule a pre-construction meeting with the Department of Public Infrastructure prior to the start of construction.

Materials Provided by the Applicant are available at: <https://www.newbedford-ma.gov/planning/planning-board-agenda-info-2022/>

Staff Report prepared by: Rachel Mulroy Staff Planner
Reviewed by: Michael McCarthy, Assistant City Planner



756 South Water Street Map: 31 Lot: 232

NOTE: Property line is approximate; for discussion purposes, only. Aerial image is oriented north.