

The Planning Board for the Town of Derry held a public meeting on Wednesday, June 21, 2023, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room, with a virtual option.

Members present: John O'Connor, Chair, \*David Nelson, Vice Chair, Andy Myers, Secretary, Randy Chase, Town Administrative Representative; Dave Granese, Town Council Representative, Chris Feinauer; Richard Malaby, Dan Healey, Members.

Absent: John Morrison, Alternate, Mark Connors, Member

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning and Economic Development Assistant; Mark L'Heureux, Town Engineering Coordinator; Beverly Donovan, Economic Development Director; Lisa Carvalho, Planning Clerk

\*Denotes virtual attendance.

Mr. O'Connor opened the meeting at 7:00 p.m. The meeting began with a salute to the flag.

## **Escrow**

### **#23-07**

**Project Name: Starbucks**

**Developer: Derry Retail Management II, LLC**

**Escrow Account: Same**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: 35018, 38 Crystal Avenue**

The request is to renew the Letter of Credit #100059047, drawn on Camden National Bank, in the amount of \$148,113.36 for the above noted project. This Letter of Credit has an automatic renewal provision. The expiration date shall be May 16, 2024.

Motion by Granese, seconded by Myers to approve as presented.

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

**#23-08****Project Name: Aspen Dental****Developer: Derry Retail Management, LLC****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 08002, 38 Manchester Road**

The request is to renew the Letter of Credit #100059048, drawn on Camden National Bank, in the amount of \$131,207.04 for the above noted project. This Letter of Credit has an automatic renewal provision. The expiration date shall be July 06, 2024.

Motion by Granese, seconded by Myers to approve as presented.

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

**#23-09****Project Name: CHI Overhead Door****Developer: Northpoint Construction****Escrow Account: Same****Escrow Type: Performance Bond****Parcel ID/Location: 08280, 10 Ashleigh Drive**

The request is to establish Performance Bond #CTHNSU835622, issued by Harco Insurance Company, for the above noted project, in the amount of \$45,470.16. The expiration date shall be June 07, 2024.

Motion by Granese, seconded by Myers to approve as presented.

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, O'Connor, Nelson. The motion passed with all in favor.

**#23-10****Project Name: Denali Estates II****Developer: JAL, LLC****Escrow Account: Same****Escrow Type: Performance Bond****Parcel ID/Location: 11058, 19 Forest Street**

The request is to approve Release #1 on Performance Bond #012212137, in the amount of \$541,904.54 issued by Ohio Casualty Insurance Company, for the above noted project and request a replacement bond in the amount of \$561,174.48.

Motion by Granese, seconded by Myers to approve as presented.

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

**#23-11****Project Name: AEC Office/Garage****Developer: American Excavating Corp. (Seven Hills Dev.)****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 31011 & 31013, 5 & 15 Madden Road**

The request is to approve a final release of Letter of Credit #22413, drawn on Enterprise Bank, in the amount of \$22,137.51. The amount to retain is zero.

Motion by Granese, seconded by Myers to approve as presented.

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

**Minutes**

The Board reviewed the minutes of the June 07, 2023, meeting.

Motion by Myers, seconded by Healey to approve the minutes of the June 07, 2023, meeting as written.

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson. O'Connor abstained and the motion passed.

**Correspondence**

There was no Correspondence.

**Other Business****Architectural Design Review under the TBOD, PID 30053, 8 East Broadway, Sign – Wayward Vestiaire**

Mr. Sioras stated this, on East Broadway, is a women's consignment shop. The owner is moving to Derry from Worcester, MA. Staff recommends approval.

Motion to approve, pursuant to the Town of Derry's Zoning Ordinance Article XII, Signs Section 165-101.5, Traditional Business Overlay Sistrict that the proposed sign for PID 30053, 8 East Broadway, meets the spirit and intent of the ordinance, by Granese, seconded by Myers.

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

### **Chairman and Planning Director Updates**

Mr. Sioras reminded the Board of the summer meeting schedule. The Board is scheduled to meet on July 19 and August 02. The Board will return to its normal schedule in September.

Mr. Sioras stated that the Town Council will meet on July 11, 2023, for a Public Hearing regarding the zoning amendments that took certain parcels in the Downtown out of the TBOD and put them back in the Central Business District.

Mr. O'Connor reminded the Board Members to participate in the Educational Training classes this summer. Policies and Procedures require one training course per year.

### **Public Hearing**

**A public hearing to discuss Hood Commons BSD LLC, PID 36017, 55 Crystal Avenue, Acceptance/Review Site Plan, Proposed Chipotle Restaurant with pick up window, 2466 square feet.**

Mr. Sioras stated for the record, the applicant is Hood Commons BSD, LLC. The project is for a Chipotle Restaurant, located at the entrance to Hood Plaza, which is located in the General Commercial District. All Town Departments have signed and reviewed the plan, including the Conservation Commission. There is a waiver request from VHB Engineering. No state permits are required. Staff recommends approval of the waivers and the site plan application. Mr. Sioras introduced the engineers from VHB. An abutter, Steve Trefethen was in attendance. Mr. Sioras yielded to Mr. Fenstermacher.

Mr. Fenstermacher, of VHB, the Project Manager and Lead Site Civil Engineer on the Chipotle project, was joined by Jason Plourde, Traffic Engineer, as well as virtually by Daniel Radman, Design Manager, Chipotle; Steven Imburgia, representing Madison Properties, and Chris Lasky, of Lingle Design.

Mr. Fenstermacher presented an Agenda for an overview, including a Timeline Review, Location, Zoning, Site Overview, Existing Site Conditions, Proposed Site Conditions, Stormwater Management, Site Lighting, Traffic, Architecture, Landscape Improvements and Question & Follow-Up Discussion.

#### **Timeline Review:**

04/07/22 – ZBA Approval for Wetland Setback Variance

02/23/23 – TRC Submittal #1

03/20/23 – Conservation Commission #1

04/17/23 – Conservation Commission #2 - Con Comm was satisfied with the changes.

04/20/23 – Highway Safety Committee #1 – Received comments and updated the TRC package. There was a follow up meeting with Highway Safety, where the focus was on the entrance at Crystal Avenue.

05/03/23 – TRC Submittal #2

05/23/23 – Site Plan Application.

06/16/23 – Wright Pierce Comments Received and reviewed. Clarifications were made.

06/21/23 – Planning Board Hearing

Mr. Fenstermacher presented an aerial view of the site, highlighting the location of the proposed building. It has been an open lot for about 15 years. Overall, 55 Crystal Ave is approximately 23 acres. There is a conservation district with a portion of the right side of the project with existing wetlands on which there will be minor impact. The project focuses on .9 acres between the two banks along the Hood Commons entrance on Crystal Avenue. Mr. Fenstermacher stated there is not a traditional drive-through lane, but a mobile-order system. There are 26 parking spaces in the back, with 2 ADA spaces. There is a waiver request for the parking. The location is in a larger shopping center, providing additional parking. He does not see overflow-parking being an issue. There have been meetings with the Highway Safety Committee that focused on closing the entrance on Crystal Avenue to public traffic for safety reasons. This entrance will be restricted to service vehicles only. Signage will indicate the restricted access from Crystal Avenue. The main access will be through the main entrance of Hood Commons to the back of the site on the right, for parking and the pick-up window. ADA spaces will be at the entrance to the restaurant. There is an enclosed dumpster area indicated, accompanied by an additional waiver request. The requested waiver is to allow the dumpster setback to be reduced to 17 feet. The dumpster enclosure is not a chain link fence, but a CMU block enclosure. Curbing is added here to contain any spills. There is less than 3,000 square feet of wetland impact. This has been approved by the Conservation Commission. They cosigned the application to DES which has been submitted to the State to show minimal impact. We expect that to be approved in the next month. There are water, sewer, and power utilities along Crystal Avenue that we will connect to. There will be no need to cut into Crystal Avenue to reach the utility lines. The connection to gas will be through the Hood Commons property from Pinkerton Street.

Operation Overview: There is a pick-up lane available to those customers that placed a mobile order. Based on our data, there will be an average of two (2) vehicles in the pick-up lane. This is more efficient than a standard drive-thru with a menu. Hours of Operation - 10:45 am to 10:00 pm. Trash pick up is 2-3 times per week. The delivery schedule will be off-hours, 3-4 times per week. There are no freezers, because all the food is fresh and refrigerated only. This makes front access to the dumpster necessary. Maintenance and clean up protocols will be upheld by the crew and employees. They are responsible for keeping the interior and exterior, including the parking area clean, and emptied of garbage. Hood Commons, as the property owner, is responsible for maintaining the building, the structure of the roof and the landscaping. The Chipotle team will take care of all other aspects, including snow plowing. For Stormwater Management, we added a greenspace to the detention area with a subsurface recharge trench. When we did the test pits for the sewer connection, we discovered an existing recharge system, and we adjusted our project to connect to that. We have an in-depth construction plan for erosion control. Under today's conditions, there are portions of the site that flow untreated into the wetlands. Our curbing and catch basins with sumps and sediment control will treat the runoff prior to discharge into the wetlands. Site Lighting: We performed a photometric study to show that we comply with the Town standards. Mr. Fenstermacher yielded to Mr. Plourde for an Overview of the Traffic.

Mr. Jason Plourde, Traffic Engineer, stated that they met in February with Town staff to be sure that we would be including any specific information that may be deemed necessary for the traffic evaluation. The number one concern was how much traffic is the site going to generate and the operations of the “Chipotlane”, the pick-up lane. A study was done at 6 existing Chipotle restaurants: 2 in CA, 1 in MA, 1 in CT and 2 in OH. We did not ~~present~~ prepare that study but used the information. People are more apt to stay in their cars, particularly since the pandemic. One would think there would be more cars using the pick-up lane. The study showed that there was a queue of 2 cars on average. Customers cannot order from a drive-thru menu board. Orders will be placed through a mobile application and picked up at a designated time. The study showed this to be more efficient than a typical fast-food restaurant drive-thru. The Town has guidelines for drive-thru windows that must have queueing for 6 vehicles. Based on the site layout, we will be able to accommodate 10 cars in the queue. Based on the 6 location study data, the “drive-thru” area will meet the Town regulations and will satisfactorily meet the proposed conditions. For the Trip Generation we used the Institute of Transportation Engineer’s trip generation information. We used a fast-food restaurant to generate the traffic for this type of development and based on that information, compared that to a general ~~standard-threshold~~ that ITE and NHDOT have. ~~This that~~ states that if you are going to generate 100 vehicles per hour through an intersection, you might have a noticeable impact. Noticeable impact means increasing delays ~~at a light~~, or queuing ~~on roadways~~ at an intersection. Improvements may be needed in that case, possibly changing traffic controls, or other improvements. In this situation, we will not be generating that amount of traffic. Based on ITE and DOT standards and methodologies, we looked at 3 different trips: Cars also using other areas of Hood Commons, other cars already on the roadway that will be turning in and out and new cars coming to the area. These were accounted for in our traffic study. The proposed project will have a negligible impact on traffic.

The floor was yielded to Chris Lasky, of Lingle Design, attending virtually. Chris provided visuals of the proposed building and the surrounding area. Exterior finishes were pictured. The top portion of the building protrudes slightly. The front and back entrances have metal canopies that will have subtle lighting.

Mr. Fenstermacher reviewed the landscaping plan in detail. This was presented to the Conservation Commission who provided feedback. The area that is currently jersey barriers at the front of the site will be beautified. Landscaping along the entrance will maintain a 10-foot buffer between the restaurant and the property. The details of the plantings are in the package.

Mr. Fenstermacher reviewed the waivers for the record.

Waiver from Section 170-29.K –to allow less than the required three foot depth of cover over pipe in some areas of the site as shallower cover is required in some areas to meet the existing inverts of the existing stormwater infrastructure.

Waiver from Section 170-63.4 (j) to allow 26 parking spaces where the regulations require 49 spaces as Chipotle maintains their business model and historic use only require the 26 spaces.

Waiver from Section 170-67.B (1) to allow a dumpster to be located 17 feet from the property line where the regulation requires a distance of 25 feet as the existing dimensions of the lot constrains the site.

Waiver from 170-64.A (3) to allow less than 1/3 green space as the existing condition contains 27.7% green space and the proposal results in a net increase of green space. This is an existing non-conformance that will be improved.

Wright-Pierce reviewed each of these and in their letter indicated no issues with the requests.

Motion to accept jurisdiction of the site plan before the Board for Hood Commons BSD, LLC, PID 36017, 55 Crystal Avenue by Granese, seconded by Myers.  
Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. All voted Yes. Jurisdiction is accepted.

Motion to determine regional impact, pursuant to RSA 36:56, the Board finds the proposal as presented at this time meets the definition of a development of regional impact by Granese, seconded by Myers.  
Roll Call Vote: Mr. Chase votes No – This is a small local project and does not meet any of the definitions for regional impact. Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. All voted no for the same reason.

Motion to open the public hearing by Granese, seconded by Myers.  
Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

The **Public Hearing** is now open.

The Board recognized Steve Trefethen; abutter at 43.5 Crystal Avenue, owner of 6.24 acres on Crystal Avenue, including 2 acres of wetlands. Mr. Trefethen stated these wetlands tie together behind the Enterprise Bank with parts owned by different owners at Hood Commons. He stated that he revised his email to the Board after looking more closely at the proposal plans. He has 5 areas of concern. Are the retention ponds dumping directly into the wetlands? Mr. O'Connor commented that Mr. Trefethen is not necessarily a direct abutter and is not the "owner" of the wetlands. China Castle owns the property. Mr. Trefethen directed his first question to Mr. L'Heureux who responded that there is not a detention pond, per se. It is a bioretention trench that the engineer designed to clear the water prior to release into the outlet. Mr. O'Connor commented that this has gone through the Conservation Committee and the State of NH DES. Mr. L'Heureux replied that there is no AoT on this project as it is under 100,000 square feet. The engineer designed it according to the standard that the AoT would expect to be designed, because our regulations mirror that. Mr. Trefethen commented to clarify on the project he built behind this, our discharge is discharged opposite of the wetlands and then goes along the trench, into the grass and then comes back down. Mr. L'Heureux replied that this is the same thing, but not a pond per se. Bioretention is set up in different levels of media, stone and gravel and sand and that filters through a pipe underneath the actual detention pond. It's called a bioretention swale.

Mr. Trefethen referenced snow removal. Is the snow moved to the front or the back of the property? Mr. O'Connor replied that it is being moved to the back of the property, towards the ATM. Mr. Trefethen requested clarification of the distance between Crystal Avenue and the front of the building. He asked if the building was 110 feet off Crystal Avenue. Question deferred to the engineer's rebuttal. Assuming this measurement is correct, and that the building is 75 feet long, Mr. Trefethen felt the beginning of the dumpster would be another 30 feet. The dumpster pad is 14 feet. Where will they put the snow at the front, and the salt from Crystal Avenue? If that gets pushed back 214 feet before you get to the dumpster, what is going to happen to the wings of the snow? If pushed to the right, the wetlands start 125 feet from Crystal Avenue. How will they wing the snow at 2"/hour and avoid the wetlands? Are the measurements correct?

It looks to me that they will put a block wall to retain the parking lot and fill up 6" higher and then a chain link fence from there. There is a 6" curb. Will that stop the snow from going into the wetlands? How do we keep the salt out of the wetlands? Mr. Trefethen asked for the count of seats inside the restaurant. Mr. Trefethen also abuts the back of Hood Commons. He raised concerns regarding the student population at Hood Middle School and Pinkerton Academy coming to Chipotle. Will Chipotle manage the kids that will be hanging out in that parking lot? This speaks to the trash in the wetlands. When the wetlands are littered, who is going to pick that trash up? Who is responsible? Regarding the dumpster, do they have a grease pot and is it with the dumpster slab? How will it be cleaned, and will it go into the wetlands? Will the compost totes be stored inside and brought out for pick up or stored outside? When the dumpsters are emptied, who will be responsible for the trash that flies out? Mr. Trefethen believes that the dumpster will be too close to the wetlands. A fence or a wall will not keep the trash from going over. Will the traffic be increased when the kids get out of school?

There was no further public comment.

Motion to close the public hearing by Granese, seconded by Myers. Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.
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**The Public Hearing is now closed.**

Mr. O'Connor yielded the floor to Mr. Fenstermacher and Mr. Plourde to reply. Mr. Fenstermacher confirmed that the building is 110 feet from the roadway. The front island is 38 feet. The building is 75 feet long. The plans show highlighted areas. There is a snow storage area that stops in the front before it gets to the stormwater and the wetlands. There is also the larger storage area in the Hood Commons parking area that is far from the wetlands and will go into catch basins that will filter out the salt and discharge. Calculations are included in this plan to show that it is appropriate for snow storage. Madison Properties and Chipotle will be sharing this information with their contractors to avoid storage on the right side. They are dedicated to meeting the intent of the plan. Regarding the bioretention, as the water flows into it, there is some surface media that recharges and there is greenspace to handle the overflow before it gets to the wetlands. There is not a direct discharge into the wetlands.



There are 36 seats inside and 18 on the front patio that will be seasonal. Regarding composting and clean up, Mr. Fenstermacher deferred to Daniel Radman, Design Principle and Design Manager for Chipotle for the Northeast Region, who is in charge of this particular project, attending virtually. Mr. Radman stated that they make allocations in our garbage enclosures for composting bins, but we only do compost where we are required by the jurisdiction. This depends on the town or city that we are in. Not all locations require composting. He does not think Derry requires compost. The project will not have composting bins and will be following their standard trash removal policies. In another comment raised about the grease, we do have fryers to cook the tortilla chips. That is contained in grease caddies or stainless steel bins, with smaller ones in the store and the larger container that is kept in the garbage enclosure. These are pumped out by our garbage haulers and grease reclaimers that service the store. We try to maintain a clean trash enclosure being fully aware that a dirty trash enclosure encourages rodents and other issues and that's the last thing we want. We try to maintain as clean a facility and site as possible. In addressing trash removal, Mr. Radman stated that there will be one exterior trash bin in the patio area. We do not place additional trash bins scattered throughout the site. We have observed that this would encourage patrons to sit in cars and eat in the parking lot; it encourages additional trash to be strewn across the parking lot. We do not want this to happen. We have trash receptacles in the interior that our crews take care of. The crew is instructed that these be clean and emptied every couple of hours. They also make sure any trash on the site is picked up during operational hours. If the Town wants us to, we can put up signage to prevent loitering in the parking lot. Although we have other locations near schools and colleges, we don't experience these kinds of problems. What Mr. Radman has seen in his site visit to this lot is that it will be illuminated and monitored. It will not be an environment conducive to having kids tailgating. Regarding trash pickup, we have a national company that we consult with for all our trash removal contracts. They will contract with us for a local hauler who will pick up, based on volume, usually 2-3 times per week. The trash pickup can be more often if volume requires. Mr. Fenstermacher asked what that company's responsibility would be for fly-away trash. The haulers are instructed to leave the location as tidy as possible with no trash on the ground. If there is trash on the site during business hours, the crew will be expected to clean it up. We have a culture of having a clean and tidy restaurant and site. The crew members are trained in this. Regarding traffic, if the line is long and a customer wants to walk in and pick up, that is available. When the order is placed, a time is selected for pick up. The standard is to have the order ready 5 minutes before the pickup time. The orders are processed so that multiple orders are not available for pick-up at the same time. Based on our demographics and other store's history, we know how many orders we can handle during time frames. Orders can be picked up in-store or in the car pick-up window. There is a volume we know we can maintain, based on sales volume.

Mr. O'Connor opened the floor for comment by the Board.

Mr. Chase commented that he shares Mr. Trefethen's concern regarding grease spills and would like to see a spill containment for that. Mr. Radman said that this could be done. Mr. Chase also commented on Sheet C3.01, the seating accommodations call for 40 interior and 20 exterior and asked for clarification. Mr. Fenstermacher stated the correct numbers will be amended on the plans. Mr. Chase stated that the dumpster location was a concern during Highway Safety.

Different avenues were looked at. It was determined that the right turn front service entrance was the safest route for the truck to go in, empty the dumpster and continue forward.

Mr. Myers brought attention to the plans that show the yellow arrow, indicating the restricted service entrance. What would stop regular traffic from using that entrance? Mr. Fenstermacher responded that there would be signs indicating Do Not Enter and this was discussed with Highway Safety. Mr. Myers noted that the main entrance would be toward the back of the property inside Hood Commons. How will you stop traffic from going out of the service entrance on Crystal Avenue? Mr. Fenstermacher replied that if they tried to turn right there, they would be looking at oncoming traffic. Mr. Myers defers to the Highway Safety Committee. He also stated that the plans have very small print and are difficult to read. Mr. Fenstermacher noted the concern for the future.

Mr. Granese asked if Chipotle would be using their own contractors or Hood Plaza's contractors for snow removal. Mr. Radman replied that we typically do our own but if there is a synergy with the Plaza contractor, we can contract with them to do our property as well. Chipotle is responsible for their own snow removal.

Mr. Granese asked if the right turn only is similar to what is at the Woof Meow. Mr. Chase commented on the similarity to the rear entrance of the Dollar General (17 Crystal Avenue.) Mr. Fenstermacher stated that the goal is to minimize the turn's usage as much as possible with design and signage.

Mr. L'Heureux commented that there are additional items that we need to address on the plan that are related to grading and profiling the wall. We would like the engineer to provide a stamped plan and profile for the retaining wall, so we have a good plan. There are other miscellaneous notes regarding drainage reworks, where the existing exfiltration or infiltration system is, that was put in many years ago, where the snow currently gets piled. We saw some updates on the plan earlier this week. There are additional comments related to plan details, drive aisle width and other items such as sewer pipe sizes, and drainage details from Wright-Pierce that will need to be addressed. These are conditions noted in the package.

Mr. Nelson asked if the outside seating was only for customers that order on the app and then pick up and eat there or is it also for walk-in customers. Mr. Radman responded that the indoor and outdoor seating is for all customers. The exterior seating is seasonal.

Mr. Nelson inquired that given the seating and the required parking also needed for employees, how does that match up with the proposed parking spaces? Mr. Fenstermacher replied that according to the parking requirements that are based on square footage and the maximum number of employees, that's 49 spaces. We are showing 26 spaces based on empirical data from Chipotle. Mr. Radman commented that there is a broad range depending on the site location, there is overflow parking behind us as we abut the larger parking lot; not that we would depend on it, but it is there for overflow. Historically we have needed 22-28 spaces for patrons and employees. This is how we landed at 26 spots.

Mr. Chase asked Mr. L'Heureux for his position on the depth of cover waiver. Mr. L'Heureux explained we pushed to try to get as much cover as we could on the pipes, but the restrictions of the site and being able to fit the bioretention swale in and meet the outlet and inlet elevations made it difficult to do. They will have to bring in fill to build the site up a little bit as the site is fairly flat, just to get the proper slopes on the entire parking lot. Mr. Fenstermacher commented that the challenge with the existing site is that when this site was developed, it utilized catch basin, pipe, and outlets and now we are trying to incorporate treatment and the outlet is already set for no treatment. It is a challenge. We had to balance raising the site up versus getting to the bioretention and balancing that with areas where there is not an ideal amount of coverage.

Mr. Chase commented that he would like the Board to weigh in on making a condition that the commodity dumpster have a separate containment system for the grease from the main dumpster enclosure. Mr. O'Connor asked for the Board's wishes and is it doable. Mr. Radman responded that, although he's never done one, he will look into it.

Motion to grant a waiver from LDCR Section 170-29.K to allow less than the required three foot depth of cover over pipe in some areas of the site as shallower cover is required in some areas to meet the existing inverts of the existing stormwater infrastructure. After review of the waiver request the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations, by Granese, seconded by Myers

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

Motion to grant a waiver from LDCR Section 170-63.4 (j) to allow 26 parking spaces where the regulations require 49 spaces as Chipotle maintains their business model and historic use only requires the 26 spaces. After review of the waiver request the Board finds that strict conformity to the regulations would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations, by Granese, seconded by Myers.

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

Motion to grant a waiver from LDCR Section 170-67.B (1) to allow a dumpster to be located 17 feet from the property line where the regulation requires a distance of 25 feet as the existing dimensions of the lot constrains the site. After review of the waiver request the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations, by Granese, seconded by Myers.

Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

Motion to grant a waiver from LDCR Section 170-64.A (3) to allow less than 1/3 green space as the existing condition contains 27.7% green space and the proposal results in a net increase of green space. After review of the waiver request the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations, by Granese, seconded by Myers.  
Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

Move to find that pursuant to LDCR 170-85, that the application as presented demonstrates substantial compliance with the Architectural Design Regulations. This property is located in the General Commercial district and meets a Medium High level of compliance as outlined in Section 170-84. by Granese, seconded by Myers.  
Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

The Board finds the proposed plan provides safe and efficient vehicular and pedestrian access, and the design and construction of the access ways and walkways are adequate to accommodate the anticipated volume of traffic proposed by the development.

The Board finds the proposed parking plan is adequate for the site and meets the parking density requirements for the use as noted by the waiver approved this evening.

The Board finds the landscape plan meets the intent of the regulations.

The Board finds the stormwater management as proposed is designed to control the post development runoff so that it does not exceed predevelopment runoff.

The Board finds the utility construction standards are met and the property has a sufficient number of hydrants for the proposed use.

The Board finds exterior lighting, solid waste storage and snow storage provisions, and erosion and sediment control provisions are adequate.

Motion to agree with the above noted findings of fact by Granese, seconded by Myers.  
Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

Move to approve pursuant to RSA 676:4 I – Completed Application, with the following conditions:

- ☐ Comply with the Wright Pierce review letter dated June 15, 2023, and any subsequent reviews.

- ❑ Subject to owner's signature.
- ❑ Comply with any outstanding items as noted in correspondence dated May 22 and May 23, 2023, from the Engineering Coordinator.
- ❑ Subject to on-site inspection by the Town's engineer.
- ❑ Establish appropriate escrow as required to complete the project.
- ❑ Note approved waiver (s) on the plan.
- ❑ Obtain written approval from the Planning Director/designee that the GIS disk is received and is operable and it complies with LDCR Section 170-61.C.
- ❑ Subject to receipt of applicable state or local permits relating to the project (i.e., AoT, Wetland, Building Department, Fire Department, Water/Wastewater, Driveway, etc.)
- ❑ The commodities dumpster/oil recycle dumpster shall have a containment system independent of the main dumpster.
- ❑ Conditions precedent shall be met within 6 months.

Motion to agree with the above by Granese, seconded by Myers.  
Roll Call Vote: Chase, Healey, Granese, Feinauer, Malaby, Myers, Nelson, O'Connor. The motion passed with all in favor.

There was no further business before the Board.

Motion by Myers, seconded by Granese to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:38 p.m.

Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary

Approval date: \_\_\_\_\_