

**NOTICE OF DECISION
SITE PLAN REVIEW IN ASSOCIATION WITH A
SPECIAL PERMIT A2 AND A3**

Certified #7018 1830 0000 1812 5434

IN THE MATTER OF:

Applicant: W/S/M Hingham Properties LLC.

Premises: The Derby Street Shoppes
124 Old Derby Street
100 Derby Street
Hingham, MA 02043

Date: November 26, 2018

Plan Reference:

“Derby Street Shoppes Expansion 100 Derby Street Hingham, Massachusetts”, dated March 9, 2018 and revised to July 13, 2018, prepared by the BSC Group, 803 Summer Street, Boston, Massachusetts, 02127, prepared for W/S/M Hingham Properties LLC, 11 sheets.

Summary of Proceedings:

This matter came before the Planning Board on the application of W/S/M Hingham Properties LLC Site Plan Review under § I-G and § I-I and a Special Permit A3 Parking Determination and/or Waivers under § V-A, and such other relief as necessary to: 1) allow Health Clubs (Use 4.12A) within the Shopping Center; 2.) incorporate a 2.58 acre parcel of land located at 124 OLD DERBY STREET into the Shopping Center; 3.) construct a 13,000 SF addition to the northerly façade of the Rite Aid building; and 4.) complete related site improvements, including but not limited to grading, landscaping, utility and parking, at the DERBY STREET SHOPPES, 100 DERBY STREET in the Industrial Park and South Hingham Development Overlay Districts in association with a modification to a Special Permit A2 and Variance.

The Planning Board opened the hearing at a joint meeting with the Board of Appeals on May 14, 2018, and the Planning Board subsequently continued the matter to the meetings of July 30, 2018, August 13, 2018, September 24, 2018, October 1, 2018 and October 22, 2018 until acting on the site plan review portion of the application at the meeting of November 19, 2018 in the Hingham Town Hall at 210 Central Street. The meetings of July 30, 2018 and September 24, 2018 were continuations only and no testimony was

taken. Members of the Planning Board seated on the application were Gary Tondorf-Dick, Judith Sneath, Jennifer Gay Smith and Gordon Carr. Attorney Robert Devin, Victoria Maguire, Lou Masiello and Sherry Schular of W/S Development, and Taylor Dowdy, BSC were in attendance for the applicant. Jeffrey Dirk of Vanasse and Associates, Inc. and Suzanne King of The BL Companies served as peer review engineers for the Board. The Board heard and was mindful of public comments throughout the process. Gary Tondorf-Dick missed the meeting of May 14, 2018 but completed a Mullins Affidavit for the file after reviewing the recording and materials.

The applicant introduced the proposal by explaining that the application had several parts to it including the construction of a ~13,000 s.f. addition, relocation of the wastewater disposal area, lowering of the parking field between Rite Aid and Derby Street by approximately 5', and creation of additional parking. An adjacent parcel is being added to this project, and the draft elevations show a lattice or trellis presentation intended to have vines of 4 different types to add interest and texture to this side of the development. The applicants spoke about the parking availability as well as the interest in having approval for a health club use within the plaza but not in a designated location. The Board discussed the modifications to the site as proposed to understand the construction sequence as well as the physical changes. The Board agreed that it was beneficial to incorporate additional lands into the permit as the replacement leaching field, reserve area and permanent and temporary parking had been accommodated on that acreage. The Board noted that a parking and traffic management plan was needed for this property to help during peak demand periods and help drivers navigate the site and understand which exit to use. The Board identified sight line concerns internal to the site as well as a desire to prevent left turning movements onto Derby Street from the service entrance road. The Board reviewed the proposal for temporary overflow parking as part of the parking management plan. The Board noted that they are considering it to also be land banked parking in that if the need for these spaces expands to times outside the Peak Holiday Period the applicant may need to return to the Planning Board to design and construct these spaces. The applicant agreed with that and noted that it made sense. The civil peer review engineer, Suzanne King, P.E., from the BL Companies noted in her May 4, 2018 review that the design met the requirements of the Stormwater Management Standards. The Board then continued to focus on vehicular and pedestrian circulation, landscaping, wayfinding signage and parking details. The applicant submitted and Jeffrey Dirk peer reviewed the traffic and parking management plan and the Board suggested some revisions to the plan. The Board and applicant discussed the construction schedule and acknowledged that the applicant is still waiting for approval from the Board of Health and Department of Environmental Protection with regards to the wastewater treatment facilities. The Board discussed the request for a floating fitness use approval within the plaza as it related to the site plan review and Special Permit A3 decision. The Board also noted that a parallel request is pending with the Board of Appeals to allow Health Clubs within the center. The Board noted during their discussion of the fitness use matters within their purview that the Board of Appeals was yet to act on the request and so any action that they may take was of course contingent upon on action by the Board of Appeals. The Board then discussed what areas of the parking field might be able to support the parking demands resulting from a fitness use and the peak demand periods

expected from the fitness use as compared to the shopping center as a whole. After additional discussion the Board moved to deliberation on site plan review.

Findings:

Board members then reviewed the project in accordance with the Site Plan Review Criteria contained in Section I-I (6) as follows:

- a. *protection of abutting properties against detrimental uses by provision for surface water drainage, fire hydrant locations, sound and site buffers, and preservation of views, light and air, and protection of abutting properties from negative impacts from artificial outdoor site lighting;*

The Board found that additional trees were required as part of the SAS replacement approval adjacent to the Best Chevrolet project.

- b. *convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets; the location of driveway openings in relation to traffic or to adjacent streets, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections; sufficiency of access for service, utility and emergency vehicles;*

The Board found that the applicant will be improving the visibility of the crosswalks to improve pedestrian safety and has proposed improving the wayfinding signage to help inform drivers as they navigate the site. The Board found that left turn maneuvers onto Derby Street from the east service driveway are unsafe and also difficult as traffic volumes continue to increase on Derby Street. The Applicant has agreed to investigate the potential design and construction of a raised island or physical barrier to prohibit left turn exit maneuvers in this location.

- c. *adequacy of the arrangement of parking, loading spaces and traffic patterns in relation to the proposed uses of the premises; compliance with the off-street parking requirements of this By-Law;*

The Board found that a Special Permit A3 is needed for the proposed fitness use for parking if the Board of Appeals adds this use to the Shopping Center as requested. The fitness use shall be capped at no more than 75 occupants (cumulative total within the Derby Street Shoppes) as defined by the maximum building occupancy of the demised area that is to be occupied by the fitness use pursuant to the Building Code or as determined by the Building Commissioner. The Board found that fitness uses shall not be allowed on the Whole Foods side of the Pavilion Building that fronts toward Derby Street, or in the units immediately adjacent to the Whole Foods business extending south a distance to parallel the rear of the northern tenant spaces in the Pavilion Building, or immediately adjacent to the Apple Store (i.e., sharing a common demising wall). The Board requested that the applicant provide a revised exhibit showing the fitness use areas based on this finding. The Board found that the parking allocation for the fitness use within the Derby Street Shoppes shall not be less than one (1) space per three (3) occupants. This ratio is appropriate for this site because it is shared parking and non-

coincident peak parking demand. Staff parking is not included in this requirement. The Board found that a Parking and Traffic Management Plan has been submitted to guide operations and that the Parking and Traffic Management Plan needs to be revised to incorporate all of the actions that the applicant has agreed to as part of the peer review process. The Board found that the Peak Season Parking Management plan defines the peak season as “the holiday shopping period from Thanksgiving through New Year’s Day each year”. The Board also found that the temporary parking areas are dimensionally compliant and will be striped.

d. adequacy of open space and setbacks, including adequacy of landscaping of such areas;

The Board found that the landscaping as presented is adequate.

e. adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;

The Board found that the dumpsters are shown on the plans.

f. prevention or mitigation of adverse impacts on the Town's resources, including, without limitation, water supply, wastewater facilities, energy and public works and public safety resources;

The Board found that incorporation of 124 Old Derby Street into the Derby Street Shoppes permit provides additional acreage for utilities and parking and the site plan has been revised to incorporate this area. The Board also found that the building addition still requires approval from the DEP and the Board of Health for the wastewater treatment plant and system.

g. assurance of positive stormwater drainage and snow-melt run-off from buildings, driveways and from all parking and loading areas on the site, and prevention of erosion, sedimentation and stormwater pollution and management problems through site design and erosion controls in accordance with the most current versions of the Massachusetts Department of Environmental Protection's Stormwater Management Policy and Standards, and Massachusetts Erosion and Sediment Control Guidelines.

The Board found that A SWPPP is required for this project. The Board also found that the peer review engineer memo of 5/4/18 notes compliance with the stormwater management standards.

h. protection of natural and historic features including minimizing: the volume of cut and fill, the number of removed trees of 6 inches caliper or larger, the removal of stone walls, and the obstruction of scenic views from publicly accessible locations;

The Board found that this is not applicable.

- i. *minimizing unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on or approved for the site.*

The Board found that this is an expansion of an existing retail shopping center that doesn't depart from the scale of character of the vicinity.

DECISION AND VOTE:

The Board then Moved, Seconded and SO VOTED to APPROVE the Site Plan Review for the plans titled "Derby Street Shoppes Expansion 100 Derby Street Hingham, Massachusetts", dated March 9, 2018 and revised to July 13, 2018, prepared by the BSC Group, 803 Summer Street, Boston, Massachusetts, 02127, prepared for W/S/M Hingham Properties LLC, 11 sheets, based on the findings, and subject to the following conditions:

1. Applicant must submit a revised set of plans that don't show the SAS project approved previously as part of this project. It can be greyed out or shown as Phase I but the plans must be clear as to what is approved as part of this permit set. This revised set of plans must have an updated phasing plan to specifically call out sequence of construction, and, if the parking behind Kohl's will be constructed BEFORE the Rite Aid parking lot is closed for construction.
2. Full implementation of the signage and pavement marking improvements shown on the plans titled "Directional Signs and Locations" and "Pedestrian Routes", and as supplemented in the narrative of the Traffic and Parking Management Plan must be implemented prior to the issuance of a Certificate of Occupancy for the project.
3. Prior to the issuance of a building permit for the expansion of the Derby Street Shoppes, the Applicant shall make application to the Massachusetts Department of Transportation (MassDOT) for approval to design and construct a raised island or other suitable barrier to physically prohibit left-turn exiting maneuvers from the east service driveway, and install signage noting "no left turn". To the extent that MassDOT approves the modifications to the east service driveway and any additional signage, the Applicant shall design and construct the improvements and install the signage. The Applicant shall keep the Planning Board and Board of Appeals apprised of the progress on this matter and provide any final approval letters and design plans or specifications for the files.
4. Upon completion of the Derby Street improvement project, delivery trucks shall be required to exit by way of Old Derby Street and use the newly created signalized intersection of Derby Street at Old Derby Street.
5. The Applicant shall ensure that signs, landscaping and other features located within the sight triangle areas and at all intersections within the Project site are designed, installed and maintained so as not to impede lines of sight. Such features shall not exceed 2.5-feet in height as measured from the surface elevation of the intersecting roadways.

6. The Applicant shall promptly remove snow windrows located within the sight triangle areas that exceed 2.5-feet in height or that would otherwise inhibit sight lines.
7. The fitness use is capped at no more than 75 occupants (cumulative total within the Derby Street Shoppes) as defined by the maximum building occupancy of the demised area that is to be occupied by the fitness use pursuant to the Building Code or as determined by the Building Commissioner in up to three locations.
8. Fitness uses are not allowed on the Whole Foods side of the Pavilion Building that fronts toward Derby Street, or in the units immediately adjacent to the Whole Foods business extending south a distance to parallel the rear of the northern tenant spaces in the Pavilion Building, or immediately adjacent to the Apple Store (i.e., sharing a common demising wall). Applicant shall revise the Fitness Use Locations exhibit and resubmit it;
9. The parking allocation for the fitness use within the Derby Street Shoppes shall not be less than one (1) space per three (3) occupants.
10. The Applicant must submit a Final Parking and Traffic Management Plan revised to reflect the representations and agreements made during the hearing process.
11. The Applicant shall implement the wayfinding signage installation prior to the issuance of building permit for the expansion. The Applicant shall notify the Planning Board in writing when installation has been completed.
12. All temporary parking areas shall be constructed using the same reinforced treatment that is being used for the proposed temporary parking areas to the west of the Kohl's building.
13. The temporary parking lot behind Kohl's is for use during peak holiday season (Thanksgiving to New Year's Day) and is being considered also to be land banked parking. If the applicant finds there is a need to utilize this parking outside of this specified timeframe the applicant must return to the Planning Board for review of the design and construction of this parking.
14. Major construction activities associated with the expansion that would reduce the amount of available parking over current (pre-construction) conditions shall be scheduled so as not to occur during the peak holiday shopping season (Thanksgiving to New Year's Day), unless the applicant can demonstrate efforts that includes construction phasing and other accommodations to off-set the net loss in parking within the site.
15. The Applicant shall include a clause in all construction contracts that prohibits the use of Cushing Street and Gardner Street by truck traffic, excepting trucks that may also be making local deliveries along these roadways.
16. The Applicant shall conduct a parking monitoring program for the entire site that

would consist of:

i) parking demand observations conducted over a continuous 12-hour period (7 AM to 7 PM) on a weekday and a Saturday; and ii) parking occupancy within the site. The observations shall be conducted once during the peak holiday shopping season (between November 27th and December 24th) and once during spring (April, May or June) or fall (September or October). The results of the parking monitoring program shall be summarized in a written report (the "Parking Monitoring Report") provided to the Director of Community Planning within one (1) month of the parking observations and should include the following information:

Land uses and size (no. of seats, space occupied (sf) and/or occupancy (persons), as appropriate) for the uses located within the overall site at the time that the parking demand observations were performed;

Parking supply (total number of parking spaces provided);

Number of occupied parking spaces reported in 30 minute intervals during the observation period;

Number of available parking spaces reported in 30 minute intervals during the observation period (i.e., parking supply – no. of occupied spaces);

Peak parking demand period;

Average duration of stay; and,

Graphical presentation of parking occupancy within the site during the peak parking demand period.

To the extent that the observed parking demand exceeds the parking supply within the overall site, the Applicant shall identify and undertake corrective measures to address the parking shortfall including but not limited to construction of land banked parking after Site Plan Review for drainage & design standards. These measures should be documented in the Parking Monitoring Report along with the responsible party and time frame for implementation. The initial parking monitoring program should be performed prior to the issuance of a Certificate of Occupancy for the Project in order to establish a baseline condition and then thereafter within one year of occupancy of the Project (defined the tenancy/leasing of 80 percent or more of the gross leasable area created by the Project).

17. Applicant is responsible for securing all other local and state approvals.
18. Applicant must secure all required approvals for wastewater disposal from the DEP and the BOH prior to the issuance of Building permit for the expansion.
19. If the site plans change from what is approved herein the Applicant must apply to the Planning Board for a Site Plan Modification prior to the start of any construction on the building addition.

20. Applicant shall submit an electronic copy of the SWPPP to the Planning Board office not less than 3 weeks prior to the start of work for review by staff and the peer review engineer.
21. Applicant must have a preconstruction meeting with staff prior to the start of work to inspect the erosion control installation.
22. Applicant must maintain the inspection reports on-site for the construction inspections. Post construction inspection logs must be submitted to the planning department annually not later than November 30th.

Gordon M. Carr
Chairman, Hingham Planning Board

In favor: Gay Smith, Tondorf-Dick, Sneath, Carr
Opposed: none

Cc: Town Clerk, Building Department, Assessor, BOH, R. Devin, ZBA, Conservation, J. Dirk, S. King, R. Fernandes; R. Sylvester; G. Olsson, S. Murphy, C. DiNapoli, T. Dowdy,