

CITY OF RUTLAND, VERMONT
Development Review Board Minutes
Wednesday September 18, 2019

Development Review Board Members: Stephanie A. Lorentz, Al Paul, Jim Pell, Steve Wilk and Mike McClallen. Members present: Lorentz, McClallen, Paul, Pell and Wilk.

Also present: Zoning Administrator Tara Kelly.

At 6:02 PM Chair McClallen called to order the Public Hearing to consider an amendment to the Site Plan for a project at 37 North Main Street. Patrick Griffin of Enman Kesselring Consulting Engineers was present to speak about the project on behalf of the property owners. No other members of the public were in attendance. Chair McClallen explained the DRB hearing process and swore in Mr. Griffin.

Public notice had been provided by Mr. Griffin and mailing receipts presented to the City in accordance with State requirements.

The following testimony was offered by Mr. Griffin:

- The applicant is seeking minor amendments to previously approved site plan in order to accommodate tenants and change some parking lot configuration due to issues that arose during construction.
- The approved building will have 3 tenant spaces: Starbucks on the South end of the building, retail in the center, and another restaurant use on the northern end. The 2nd restaurant will be Chipotle without a drive-thru.
- Chipotle would like a 2nd patio space of 250 sq ft. The proposed location will replace 2 parking spaces that were on the previously approved site plan. There will be 43 parking spaces remaining on site after this change.
- Chipotle would like a 2nd dumpster strictly for their use. The amended site plan proposes to put this new trash enclosure next to the previously approved enclosure at the Southwest corner of the property.
- A 3rd propane tank has been added in the northwest corner of the property to accommodate the 3rd tenant. The other 2 are closer to the northwest corner of the building.
- The previous traffic study done by Fuss and O'Neil in 2018 based their analysis on the idea that the Starbucks is a "coffee/donut shop" use and the remainder of the building would be occupied by a "high-turnover restaurant" use. This second use category fits the proposed Chipotle.
- In preparation for this hearing, Mr. Griffin had asked the traffic engineer about the 3rd tenant space being retail and how that impacts the traffic study. The response is that the traffic analysis had been based upon a certain square footage for the high turnover restaurant. In the new scenario, some of that square footage will now be dedicated to the 3rd space to be used for retail. Retail creates less trips than a high turnover restaurant. Therefore, the traffic impacts will not be in excess of the calculations done previously.

- A third traffic island is being added to the middle of the parking lot. This is necessary to accommodate a new power pole with guy wire. This resulted in some shifts to size and position of the other two traffic islands as well as the curb on the northern side of the parking lot.
- The landscaping plan has been updated to show the new scenario which includes more planting in the space where a sidewalk has been on a previous plan as well as changes to the plantings on the traffic islands.
- The City Engineer reviewed the new stormwater calculations and was satisfied. ZA Kelly relayed the Engineer had no comment for the DRB and therefore decided not to send a memo.
- The type of landscaping allowable within the traffic islands has changed due to the change in the size of the islands.
- Since Rutland doesn't have any parking standards in terms of required number of spaces, Mr. Griffin did an analysis of Burlington, Brattleboro and Montpelier regulations. All three towns would require less than the 43 spaces planned. Based on this, in his opinion the parking should be sufficient.

Potential tenants for the retail space were speculated upon as it concerned DRB members that the traffic plan may not be sufficient, depending upon the type of retail tenant.

ZA Kelly relayed that the property owner suggested it would likely be a hair salon or a cell phone store.

Mr. Griffin reinforced that it is his understanding the traffic study was sufficient for all expected retail.

There was discussion about the timing of the approval of the 3rd tenant space. ZA Kelly explained the interior space had been shown as subdivided on one of the requests for minor amendment that she had processed earlier in the year. She had not caught the fact that the tenant space was being divided as the focus of the request had been on issues exterior to the building. DRB Member Lorentz said her biggest concern was traffic impacts. ZA Kelly said she had reviewed the traffic study in detail and agrees with the previous testimony that using best practices, the analysis had considered the most intense use of the space and that the changes should, in fact, cause less of a traffic impact since retail would be less intense than high turnover restaurant.

DRB member wondered what would happen if a high-intensity retail use, such as a Marijuana store, was put into this space. She noted other places, such as Boston, were experiencing traffic issues around these types of stores.

DRB member Paul asked how many seats would be in each restaurant. Mr. Griffin said the State's Wastewater Permit had been issued for up to 50 seats per tenant.

DRB member Pell wondered how the DRB could review the request without knowing the specific tenant. ZA Kelly explained that the DRB should be reviewing according to the use categories identified by the Zoning Ordinance versus the specific tenant since the tenant isn't always known.

Chair McClallen pointed out that the DRB had previously approved a Conditional Use permit, in tandem with the Site Plan on September 19, 2018, specifically to allow some portion of the building to be Retail (since Retail is a Conditional Use in this district). In that process, the traffic study chose to focus on the most intense use for the whole space beyond the Starbucks restaurant.

Mr. Griffin added that the traffic study was produced using the Institute of Traffic Engineers standards which are widely accepted nationwide. DRB member Lorentz pointed out that the traffic study is presented for consideration, but the DRB does not need to accept it as valid. Mr. Griffin agreed that it is

the DRB's right to make a decision independent of the data.

Chair McClallen adjourned the meeting at 6:25 PM and explained the decision and appeal process.

At 6:32 PM Chair McClallen called to order the Public Hearing to consider a Site Plan application for 99 Woodstock Avenue. The property is owned by Rexbo Development/Sandri Energy. The tenant is Twisted Steel Automotive. Twisted Steel owners, Jill and Tim Simonds, were present for the hearing. No one from Sandri/Rexbo was in attendance. Four members of the public were present: James and Maureen MacFarlane of 5 Porter Street and Lynne and Scott Holmquist of 3 Porter Street.

Chair McClallen called the hearing to order and explained the DRB hearing process. Anyone wishing to participate in the hearing was given a chance to swear in.

The Simonds were unable to show proof that public notice has been provided in accordance with State requirements but assumed that the Sandri people were handling it. ZA Kelly offered to follow up with the people at Sandri to secure the required proof.

The Simonds testified to the following:

- Tyler Van Epps at Sandri told her he submitted everything to the City for review
- Nothing has changed since the last hearing

Chair McClallen explained the last application to the DRB had been found incomplete. So, this is a new hearing. He asked again that the Simonds explain their application. ZA Kelly provided the Simonds a copy of the materials Sandri had sent so they would have that to refer to. After reviewing the materials the Simonds testified to the following:

- They do "regular" automotive repair as detailed in the application including oil changes, brakes, changing a motor, exhaust, rocker repair, etc.

DRB member Lorentz asked about the undercoating and vehicle painting they do.

- Ms. Simonds said it is wax that is sprayed under the car to prevent rust – though it is classified as oil undercoating – it isn't the same as spraying oil under the car like others do
- Ms. Simonds said they use an aerosol spray paint that is mixed to the color of the vehicle

DRB member Lorentz noted she remembered at the previous hearing that one of the biggest issues was the number of vehicles parked on the property. She noted there are still quite a few vehicles on site.

- The Simonds say they have 7 on site now but Sunoco has said they can have up to 13.

Chair McClallen asked them to detail how the 13 vehicles would work.

- The Simonds said the vehicle count does not include anyone getting gas service. There is no store on site. There is an office and 3 garage bays.
- There is a shed on site that is subject to this application. They have removed the race cars that were on site and the sheds that covered them. The remaining shed has engine hoists, tools, engine parts etc. There is nothing flammable in the shed. There is a security light on site to deter theft. The light is on a pole. It was on preexisting on the site when they moved in.

Chair McClallen noted the site plan submitted only shows 6 parking spaces. He asked where the other 7 vehicles would park. The Simonds said the spots are not marked on the property as shown on the plan. They said they park the vehicles on the asphalt by double-stacking them with one vehicle against the grass and another behind it. They said they are not parking on the grass.

Per their agreement with Sunoco they are open 6AM – 6PM but typically they only do repairs Monday through Friday from 6AM – 4:30PM, no weekends. Sometimes they go in on the weekends to catch up if a customer really needs their car. They don't go in until 9:30AM or so on the weekends.

DRB member Paul asked how much gasoline business they do. The Simonds said it really varies. Some days it is only \$100.

Chair McClallen invited the members of the public to ask questions or comment. Maureen MacFarlane stated that she has been frequently disrupted by loud noises on the weekends due to loud mufflers, stock cars running their engines etc. James MacFarlane stated that the number of vehicles parked on the site has been excessive, including they have been parked on the grassy areas of the property. The vehicles, even the owners' personal vehicles, are quite loud. Ms. Simonds disputed and said it was a customer's vehicle that is loud. Mr. MacFarlane said the property has been a mess and functioning more like a junkyard or a chop shop than a service station. He has lived in the neighborhood for 43 years with the service station as a neighbor. But, the condition of the site far exceeds what is appropriate for this Zoning district adjacent to a Single Family neighborhood. He appreciates that the business appears to be successful, but he feels it belongs in an Industrial area not where it is currently located. Ms. Holmquist noted she agrees with the MacFarlane's comments. She didn't have anything new to add.

Chair McClallen asked if the Simonds wanted to add anything related to their application. They said no.

DRB member Pell asked if there is anything the Simonds could do to dampen or reduce the noise level. Ms. Simonds said she has walked up and down the street when the garage was in full operation and the noise could not be heard.

Mr. Simonds apologized for the race cars on the property. He has moved them to his personal property and will not return them to the property. However, he has a V8 Mustang car that he drives. The police have been called by the neighbors about the noise. He let them know he is only driving in, idling and shutting off the engine as quickly as possible. He suggested that the neighbors live next to a repair shop. Therefore, complaining about the noise from the business is like living next to an airport and complaining about the airport noise.

Chair McClallen explained the decision and appeal process. The meeting was adjourned at 6:53 PM.

Respectfully submitted, Tara Kelly