

**PLANNING BOARD
TOWN OF BETHLEHEM**

November 16, 2004

The Planning Board, Town of Bethlehem, Albany County, New York held a **Regular Meeting** on Thursday November 16, 2004, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Parker D. Mathusa presided and called the meeting to order at 7:30 pm.

Agenda: Delmar Health & Fitness, LLC
Dunkin Donuts

Present: Parker Mathusa, Planning Board Chairman
Brian Collier, Planning Board Member
Katherine McCarthy, Planning Board Member
Thomas Cotrofeld, Planning Board Member
Christine Motta, Planning Board Member
Daniel Odell, Planning Board Member

Jeffrey Lipnicky, Town Planner
Randall Passmann, Senior Town Engineer

Paul Hite, LLS, Delmar Health & Fitness
Reggie Wagner, Delmar Health & Fitness
Mike Mashuta, Delmar Health & Fitness
Mark Sweeney, Esq., Delmar Health & Fitness
Gregg Nolan, Cafua Management, Dunkin Donuts
Rob Spiak, Bohler Engineering, Dunkin Donuts
Bruce Ginsburg, Schuyler Company, Dunkin Donuts
Lennie Micelli, Dunkin Donuts
Donald Erickson, Dunkin Donuts
Sandra Erickson, Dunkin Donuts
James & Bessie Martin, Dunkin Donuts
Harry Adams, Dunkin Donuts
Linda Rauche, Dunkin Donuts
H. Rauche, Dunkin Donuts
Clarise Pfeffer, Dunkin Donuts
Yaffa Rasowsky, Dunkin Donuts
Ken Roney, Dunkin Donuts
Penelope Roney, Dunkin Donuts
AJ McGuire, Dunkin Donuts
Deb McGuire, Dunkin Donuts
B. Rasowsky, Dunkin Donuts
Carol Rasowsky, Dunkin Donuts
Carol & Nicholas Zupan, Dunkin Donuts
Joann Dawson, Dunkin Donuts

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Delmar Health & Fitness, LLC

Chairman Mathusa opened the meeting and noted the presence of a quorum. The first item on the agenda was a request from Delmar Health & Fitness, LLC to amend Site Plan #104. The applicant wanted to construct a driveway along the eastern side of the building leading to a new parking lot to the rear of the building. Chairman Mathusa asked the applicant to update the Board on changes to the plat.

Mr. Hite presented for the applicant. He stated that revised plans had been submitted to address the comments that had been received from the Engineering Division and the Planning Department. The slope to the rear of the proposed parking lot would be re-graded to accommodate the 3 on 1 slope requirement. A silt fence would be installed to alleviate the possibility of polluting the existing storm structures. The access from the back of the building would be a marked five (5) foot wide path out into the parking lot. To prevent water from draining down the slope, a V type curbing would be installed on the edge of the pavement along the driveway area. He stated that there wouldn't be any further cutting of the trees in that area. There was an erosion ditch to the right rear that had formed because of previous grading. It would be filled in and graded with the least amount of disturbance. The exposed wires along driveway had been buried and marked. The Soils Report from the Geotechnical Engineer had been submitted and that Engineer would be retained to monitor the construction. Mr. Hite concluded his presentation and offered to answer questions from the Board.

There being no comment or questions, Chairman Mathusa turned the Board's attention to the Draft SEQR Resolution, Determination of Significance/ Negative Declaration. He reviewed the major items within the document.

A motion to accept the Draft SEQR Resolution as amended was offered by Mr. Odell, seconded by Mr. Cotrofeld and approved by all present.

The next document for consideration was the Draft Site Plan Approval Amendment #104-A. A concern was raised that because of the weather, the blacktopping of the driveway might not be able to be done. The Draft Approval Document did not allow the applicant to use the parking lot prior to final paving. Some members of the Board and staff felt that without the paving, water seepage could compromise the slope. The applicant's attorney stated that the Geotechnical Engineer would have to take that into consideration before certifying the safety of the driveway. After discussion between the Board, staff and the applicant it was decided to amend Item 9B of the Draft Approval Document. The Amended Item would now include the statement, " In the event paving of the parking area cannot be completed because of winter weather conditions, the applicant shall be permitted to temporarily use the parking area through April 2005, provided that the Geotechnical Engineer certifies that the parking area can be used safely for its intended use in this condition."

A motion to approve the Draft Site Plan Approval Amendment #104-A as amended was offered by Ms. McCarthy, seconded by Mr. Collier and approved by all present.

Dunkin Donuts

Chairman Mathusa turned the Board's attention to the next item on the agenda, a proposed Dunkin Donuts to be located within the Town Squire Phase II project in Glenmont. This would be an amendment to the previously approved Site Plan in which a bank had been approved for the footprint of the proposed project. The applicant had been in front of the Board before and a number of issues and comments had been raised. They had submitted updated plans.

Mr. Spiak presented for the applicant. He stated that the revised plans were in response to a comment letter from Mr. Lipnicky. They had submitted a Sound Analysis Document to address the noise concern and increased the parking on the Phase II site to become compliant with the Town Code. The trash container had been relocated further away from the residential area. They had proposed additional landscaping and a fence in the rear to buffer the neighbors from car headlights. Creighton Manning had supplied a letter to staff addressing the traffic concerns and the hours of operation had been reduced to 5AM to Midnight. Mr. Spiak reiterated that the baking would remain off site.

Mr. Ginsburg stated that he had met with a few of the neighbors, his property manager and representatives from Price Chopper. They had instructed Price Chopper to tell their trash company to confine pickups to hours after 6AM. Price Chopper had also agreed to limit their deliveries to the hours of 6AM to 10PM. He had told the neighbors to call the property manager if they noticed that those time frames were not being honored.

Chairman Mathusa asked the Board if they had any comments. Mr. Odell stated that he had a concern with the traffic on the site and the queuing of cars. He had observed other Dunkin Donut sites during the peak morning hours. They averaged eight (8) to ten (10) cars waiting. He did not think that the queuing area for seven (7) to eight (8) cars would be sufficient.

Mr. Spiak stated that the company strived for a sixty- (60) second response from the time the order was placed at the menu board to the pick-up window. He stated that the window should be able to service sixty- (60) cars per hour. Because the peak hours of this facility would be during the off peak hours of the other facilities on the site, he didn't foresee a problem with cars stacking.

Mr. Odell stated that this type of facility changed hands frequently, with new owners come new management approaches. He wanted to know if restrictions could be placed in the approval document to limit the hours of operation and not allow baking onsite.

Mr. Spiak thought that those restrictions could be included in the Site Plan Approval. Mr. Lipnicky stated that he would look into whether the hours of operation were an enforceable condition.

Mr. Nolan, from Cafua Management, stated that they were in a growth mode. They did not intend to sell the store. As far as baking onsite, he stated that the franchisor wanted the

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franchisee to concentrate on the retail end of the operation, not baking. The grease trap had been included in the plans because some municipalities they had dealt with wanted them. If this Board wanted, the grease trap could be eliminated.

Mr. Odell stated that over time, businesses were bought and sold. This was a fact that the Board needed to take into consideration.

Mr. Cotrofeld asked if he had heard correctly that the customers would be serviced within sixty- (60) seconds. Mr. Nolan stated that sometimes it was as low as thirty- (30) seconds. Mr. Cotrofeld wanted to know how many cars they anticipated would be circulating through per hour. Mr. Nolan stated that was hard to say. The parent company was interested in speed of service. Mr. Cotrofeld estimated that upwards of ninety- (90) cars per hour could be going through the site. He felt that was an enormous amount of cars. Mr. Nolan said that was a high estimation. He could show numbers from other facilities during the hours of 5am, 6am & 7am. He stated that the peak hours at other facilities were from seven (7) am to nine (9) am and two (2) pm to four (4) pm. The nighttime hours weren't typically very busy.

Chairman Mathusa asked if considering the limited amount of traffic they thought they would have in the early morning and the late evening, economically, could they change the hours to 6:30 am to 9 pm. Mr. Nolan said that they could potentially lose a large customer base. He wanted the opportunity to service the customer within the maximum amount of hours possible.

Mr. Collier stated that the present design for getting people off of the site was not good if the queuing stacked up. He suggested moving the window down further on the building to allow for a few more cars. Mr. Nolan stated that the window was positioned to accommodate a walk-in cooler on the inside of the building.

An audience member stated that the location of the pick-up window was directly across from one of the neighbors back porch and bedroom window. They would prefer the window to be on the opposite side of the building facing Chili's.

Mr. Collier was concerned about the screening of the structure from the neighbors. He suggested putting a berm along the rear of the site for a visual barrier and to block noise. One of the neighbors was opposed to the berm. She did not like the way they looked in front of Glenmont School. Another neighbor stated that she lived along that area and the dirt mound that was there didn't stop the noise. One gentlemen thought the berm might help.

Mr. Micelli, one of the neighbors, stated that he had submitted a petition signed by thirty-two (32) neighbors with signed letters from as many. They were all in opposition to the proposed project. He said he recently had conversations with Mr. Ginsburg about the noise from the early morning trash pick-up and hopefully something would be done. Mr. Micelli and the neighbors felt that the applicant was trying to fit too many things on the site. They understood that the zoning in the area was commercial but as a member of the Zoning Board of Appeals, he knew that his Board took the effect on the neighbors into consideration when making a determination. He hoped that this Board could do the same. The lights from the current development made his bedroom glow. They felt that the noise and the traffic in area would significantly increase. He also believed that the rodent population would increase.

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Already he had seen more moles, voles and mice in his yard. The neighbors weren't thoroughly convinced that baking would never take place on site. He stated that the neighbors were very concerned with these issues that was why there was such a good turnout tonight. They understood that eventually something would probably go on the footprint but they had hoped it would be something along the lines of the bank that had been approved.

Many of the neighbors voiced similar concerns with the proposed project, they included: noise, visual impact, light pollution, increased traffic, safety of their children, air pollution, smells, rodents and the decrease of their quality of life. One of the residents read a letter that had previously been submitted to the Board. It highlighted her opposition to development in the Glenmont area. She listed all the establishments in the area that currently sold coffee and food items and wondered why another one was necessary. She did not think that a duplication of services should be allowed within a certain radius and also felt that more development would cause additional strain on Town services such as the Fire and Police Departments. The audience seemed to agree with her assessment.

One gentleman wanted to make a point that each house in the affected neighborhood was represented in the audience. He also felt that the safety of the neighborhood was being compromised.

One woman in the neighborhood mentioned that the peak hours that Mr. Nolan had stated were the same hours that children would be getting off of the bus from school. Another woman asked if the Storm Water Pond would be fenced because children play in the area and she was worried for their safety. Mr. Passmann stated, as per the plans submitted, part of the Storm Water Treatment System that was being constructed would have fence around it but the pond area would not have fencing. He said that there shouldn't be standing water in the pond. Residents were concerned with the breeding of insects and rodents. Mr. Spiak stated that the revised design for the Storm Water Treatment System would not have standing water in it.

An audience member asked how and when the decision on the approval would be made. Chairman Mathusa stated that no decision had been made at this point. Mr. Odell stated that the question before the Board was an amendment to a previously approved Site Plan in which three uses had been proposed. The Board had pushed to put the bank in the rear of the parcel because they had felt that of the three, the bank would have the least amount of impact on the neighborhood. The Board had to see whether the applicant could come up with sufficient mitigation measures to soften the impact of the proposed project to make it a similar impact as the bank would have been.

Mr. Ginsburg recollected that the bank had been placed to the rear because of geotechnical problems that had arisen when they had tried to place it in the front. Mr. Lipnicky stated that though that was part of the decision, the Board had considered appropriate uses that would be adjacent to the residential area.

Mr. Spiak stated that the entire area was zoned commercial and had been zoned commercial for a long time. Some of the residents were within that commercial zone. He said that the application was an allowed use under the Zoning Code and didn't require any variances

under the Code. He respectfully stated that he would like to see the Board move forward on the project.

A motion to table was offered by Mr. Odell, seconded by Ms. McCarthy and approved by all present.

A motion to accept the minutes of November 4, 2004 as amended was offered by Ms. McCarthy, seconded by Mr. Collier and approved by all present.

A motion to adjourn was offered by Mr. Odell, seconded by Ms. McCarthy and approved by all present.

The meeting ended at 9:15PM.