

COMMITTEE ON SPECIAL PERMITS
As a Committee of the Whole
MONDAY, MARCH 7, 2022, at 8:03 p.m.
WOBURN CITY HALL
CITY COUNCIL CHAMBERS

Voting members present: Chairman Richard Gately, Councilor Darlene Mercer-Bruen, Councilor Charles Viola, Councilor Lou DiMambro, President Michael Concannon, Councilor Robert Ferullo, Councilor Jeffrey Dillon, Councilor Joseph Demers, and Councilor Joanne Campbell

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Reading and approval of meeting minutes of February 7, 2022: Motion made by Councilor Mercer-Bruen and seconded by Councilor Demers to approve the minutes of the previous meeting; in favor, 9-0.

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Loco Donuts, LLC for a special permit pursuant to Section 5.1(29), Section 5.1(63A), and Section 12 of the 1985 City of Woburn Zoning Ordinance, as amended, to allow for a fast food restaurant (Dunkin Donuts) with a drive thru, at 36 Commerce Way: Representing the petitioner were Attorney Joseph Tarby, Rubin Rudman LLP, 600 Unicorn Park, Woburn, MA; Benjamin Osgood, Ranger Engineering & Design LLC, 13 Red Roof Lane, Suite 203, Salem, N.H.; and Jason Pino, Loco Donuts LLC, 36 Commerce Way. Motion made by Councilor Mercer-Bruen and seconded by Councilor Dillon to accept and make part of the permanent record the following communications: A memorandum from Building Commissioner Thomas C. Quinn Jr. entitled “36 Commerce Way Special Permit Loco Donuts LLC,” and dated March 4, 2022; a memorandum from City Engineer entitled “36 Cabot Rd – Dunkin Donuts Special Permit” and dated March 7, 2022; and a memorandum from Attorney Tarby entitled “Proposed Conditions to Special Permit Petition Loco Donuts LLC 36 Commerce Way Woburn MA March 7, 2022;” approved, 9-0. Motion made by Councilor Demers and seconded by Councilor Dillon to accept and make part of the permanent record an amended plan of record from Ranger Engineering Group dated February 22, 2022; approved, 9-0. Attorney Tarby said the locus is in an Industrial Park district which allows a drive-through component with a special permit. He said a special permit was approved in 2006 for a Quiznos restaurant but the project never went forward. He said the applicant plans to remodel 1,450-square-feet of existing office space into a Dunkin’ Donuts with a drive-through. He said the Dunkin’ Donuts will be located in a 16,000-square-foot building. He said the committee received an email from Sgt. Charles Stokes from the Woburn Police Dept.’s traffic division indicating there has been only one motor vehicle crash during the past calendar year at the intersection of Commerce Way and Cabot Road. He said Sgt. Stokes’ email also indicated he does not recall any major crashes nor has there been any traffic-related complaints or concerns. He said there was a comment from an audience member during a committee meeting on February 7 that the lone handicapped parking space in the parking lot will be removed. He said there will actually be a third handicapped parking space added, and that Mr. Osgood will go over the revised site plan. He said he has submitted a list of proposed conditions.

Mr. Osgood said there have been a few changes to address comments from Building Commissioner Quinn, but overall, the revised plan is pretty close to what it was previously. He said the queue has been adjusted and a “do not block” area has been added to the parking lot, with signage. He said the queue can accommodate 14 cars. He said Dunkin’ Donuts directional signs will be added. He said parking spaces will be delineated for Dunkin’ Donuts and for the other tenants. He said there are 17 more parking spaces than the number required under the zoning ordinance. He said the dumpster was shifted to a new location. He said that resulted in a loss of a couple of parking spaces but they were replaced elsewhere. He said an extra parking space was added. He said the additional parking space will be van accessible. He said a walkway has been added. He said a crosswalk was extended, and the new configuration will create more visibility for pedestrians. He said the sidewalk was reconfigured. He said for a car to take a right turn, the vehicle would have to drive over a curb. He said there is not enough turning radius to make a right turn. He said that will be a deterrent. Councilor Mercer-Bruen asked if there will be a sign indicating “Do Not Enter” at the curb cut on Commerce Way. Mr. Osgood answered affirmatively. Attorney Tarby said that is addressed in condition #7 of the applicant’s proposed conditions. Councilor DiMambro asked if cars exiting the drive-through can take a right turn back through the parking lot and exit onto Cabot Road. Mr. Osgood said cars can make a U-turn and exit onto Cabot Road. He said most vehicles would have room to execute that maneuver safely but a large pickup truck will not. Councilor Campbell asked if there will be signage indicating where vehicles should enter the drive-through lane. Mr. Osgood said lines will be painted to indicate the drive-through lane. He said Dunkin’ Donuts has a standard painting package for drive-through lanes. Chairman Gately asked when snow storage will be located. Mr. Osgood said there are designated snow storage areas on the west side of the site. He said there are also snow storage areas closer to the building. Chairman Gately said if the snow storage areas become full, the applicant will have to remove snow off-site. Mr. Osgood said off-site snow removal is usually a condition with commercial property. Motion made by Councilor Mercer-Bruen and seconded by Councilor Demers to allow members of the audience to address the committee; approved, 9-0. Kris Mullen, 99 Montvale Avenue, said she does not see how this is going to work for the other tenants of the building. She said she works for Attorney Francoeur (a tenant who spoke at the February 7 committee meeting). She said tenants on the other floor are considering other options. She said the tenants have been misled. She said the tenants found out about the proposed Dunkin’ Donuts by reading about it in the Daily Times. She said the tenants are not happy. She said they do not believe a Dunkin’ Donuts is tenable at this site. She said the construction of the drive-through lane is going to be an issue. She said clients may opt to avoid the building during the construction phase. She said she takes offense at the denial of Attorney Francoeur’s representation that she has seen three accidents. She said the bottom line is the tenants did not know about this project. She said she is concerned about safety of the people who work at and come to the other offices. She said access and egress to other offices in the building is too easy. She said she hopes the committee takes these concerns seriously. Richard Canzano, who said he represents the landlord, said there was a meeting with the tenants last week. He said he thought he addressed their concerns. He said the main concern is parking. He said the tenants can park in the same areas they were parking before. He said there are security measures that can be implemented to protect the other tenants. He said access to the elevator and the stairwell can be limited. He said he does not feel like the addition of a Dunkin’ Donuts will be a big disruption. Councilor Campbell asked Mr. Canzano why he did not inform the other tenants of the Dunkin’ Donuts application. Mr. Canzano said he did not initially inform the tenants of the

possibility of Dunkin' Donuts coming to the building because of the uncertainty of the project. He said he has since spoken to the tenants and he thinks he has addressed their concerns. He said the Dunkin' Donuts is still a long way off. Councilor Campbell asked if the council needs to impose a condition that the stairwell must be locked and the elevator can only be accessed with a key. Mr. Canzano said he would rather discuss that with the other businesses in the building. He said each floor can be locked. He said each business wants different things. Councilor Mercer-Bruen said the special permit request under consideration is for a Dunkin' Donuts. She said the other tenants are not required to be notified. She said they other tenants probably should have been notified, however. She said it was reported to her that the other tenants were not notified and she is not happy about that. Councilor Campbell said she understands Ms. Mullen's concerns about security and she hopes the landlord will take that into consideration. Mr. Canzano said if there are concerns, the landlord will address them. Motion made by Councilor Mercer-Bruen and seconded by Councilor Dillon to return to the regular order of business; approved, 9-0. Councilor Mercer-Bruen said she has some questions about the conditions. She asked when deliveries will occur. Mr. Pino said there is a daily delivery of product that usually occurs between 1-3 a.m. and one weekly delivery of supplies. Councilor Mercer-Bruen asked when the weekly delivery will take place. Mr. Pino said between 6 a.m. and noon. Councilor Mercer-Bruen said she expects that will be when the Dunkin' Donuts draws the most traffic. Mr. Pino said he can request a 5 a.m. arrival time for the weekly delivery, as long as there is documentation to that effect. Councilor Mercer-Bruen said she thinks it would be prudent to make sure an 18-wheeler comes to the site when there is no customer traffic. Mr. Pino said he can request an early morning delivery. Councilor Mercer-Bruen asked if 4:30 a.m. is acceptable. Mr. Pino said he would prefer 5 a.m. He said the supplies are on pallets and the delivery time is pretty quick. He asked for a time period of 5-7 a.m. Councilor Mercer-Bruen said the restaurant opens at 6 a.m. and she wants to make sure the big trucks aren't arriving when the shop is open. Councilor Mercer-Bruen asked when the daily donut delivery will occur. Mr. Pino said between 12 a.m. – 4 a.m. He asked if the supply truck could deliver between 5-7 p.m. Councilor DiMambro asked where the 18-wheel delivery truck is going to park. Mr. Pino said the tractor-trailer can pull right in and park near the exit. Councilor Mercer-Bruen said the best time for deliveries is when there are no other tenants present. Mr. Pino said he would like a 2-hour window for deliveries by the supply truck. Councilor Mercer-Bruen asked when the tractor-trailer delivers supplies to Mr. Pino's restaurant on Mishawum Road. Mr. Pino replied the Mishawum Road restaurant gets its supplies delivered on Saturdays. Councilor Mercer-Bruen said the delivery window is going to have to be when there is no tenant parking. Mr. Pino asked if a 4-6 a.m. delivery window is acceptable. Councilor Mercer-Bruen asked if 4-5 a.m. is acceptable. She asked how long it takes to unload the truck. Mr. Pino said it takes about 20 minutes to unload the truck. Councilor Mercer-Bruen asked if the tractor-trailer can deliver between 4-5:30 a.m. or 6-8 p.m. Councilor Campbell asked if the tractor-trailer can deliver between 9-11 p.m. Mr. Pino said the store may not stay open until 11 p.m. if there is not enough business and there may be no one there to accept delivery that late. Councilor Mercer-Bruen asked if the petitioner is willing to accept a condition limiting the daily donut delivery to between 12-4 a.m. and the weekly supply delivery to between 4-5:30 a.m. or 6-9 p.m. Mr. Pino said that is acceptable. Councilor Mercer-Bruen said asked about condition #14 relative to the proposed pylon sign. Attorney Tarby said the proposed pylon sign has been removed from the plan. He said there will be a sign in front of the building. A man in the audience who did not identify himself said Dunkin' Donuts will use a slot on an existing sign. Councilor Mercer-Bruen said she would like to add language to condition #14 requiring the

signage to comply with Section 6 of the zoning ordinance. Councilor Mercer-Bruen addressed proposed condition #16 and said she is concerned about the frequency of trash collection. She said she wants to make sure the premises is kept clean. Attorney Tarby said there is a requirement for trash collection in the applicant's lease. Councilor Mercer-Bruen said it is reasonable for the City Council to ask for the applicant to collect trash 6-7 times a day. She said she does not want to see trash blowing all around the premises. Councilor Mercer-Bruen asked if the applicant agrees to the proposed mitigation. Attorney Tarby answered affirmatively. Councilor Mercer-Bruen said she would like to add condition #21 requiring the petitioner to add directional markings for the Dunkin' Donuts. Mr. Pino said Dunkin' Donuts has a standard set of markings. Councilor Mercer-Bruen suggested condition #21 as follows: "Directional markings for the drive-through lane must be kept in good and readable condition." Councilor Mercer-Bruen said she would like the phrase "and maintained in good condition in perpetuity," to conditions #9 and #11. Councilor Mercer-Bruen said she would like to add the following sentence to condition #10: "All recommendations of the Building Commissioner in a memo dated March 4, 2022, must be incorporated into this special permit." Councilor Mercer-Bruen said she wants to make sure the dumpster is not emptied before 6 a.m. Mr. Pino asked if there is a preferable time at night for the dumpster to be emptied. Councilor Mercer-Bruen proposed condition #22 as follows: "The dumpster shall be emptied in accordance with city ordinance." Mr. Pino said he can talk to the dumpster contractor about this issue. Councilor Mercer-Bruen said she does not want construction vehicles impeding traffic or parking while the construction phase of Dunkin' Donuts. Mr. Pino asked if the construction vehicles can occupy spaces allotted for Dunkin' Donuts. Councilor Mercer-Bruen said they can as long as the applicant has enough parking to meet the requirements. Councilor Mercer-Bruen proposed the following as condition #23: "All construction debris shall be cleared at the end of every work day." Councilor Viola asked where the compact spaces are as referenced in condition #5. Mr. Osgood said there will be signs to designate the compact spaces. Motion made by Councilor Mercer-Bruen and seconded by Councilor Demers that the special permit "ought to pass" with 23 conditions as follows:

1. The Petitioner shall construct and improve the Site as substantially described on the Plan of Record which for this project shall be "Proposed Site Plan, 36 Commerce Way, Assessor's Map 15, Lot 01, Block 01, Woburn, MA 01801" dated October 6, 2021, revised January 17, 2022, revised February 3, 2022, revised February 25, 2022 prepared by Ranger Engineering Group Inc., 13 Red Roof Lane, Suite 203, Salem, N.H. 03079 (hereinafter the "Site Plan") although design adjustments and modifications generally associated with: (i) preparing so-called "working drawings" or (ii) site conditions shall be permitted so long as such changes do not constitute substantial changes from said plans as determined by the Building Commissioner. In the event that the Building Commissioner determines that the building plans filed with the building permit application are not in substantial conformance with the Site Plan, the Petitioner may request a review of said plans by the City Council Special Permits Committee who shall make a final determination. If the Special Permits Committee makes a determination that the proposed plans are not in conformance with the Site Plan, the Petitioner shall be required to file a Special Permit Petition seeking approval to modify the Site Plan.

2. All dumpsters shall be enclosed, by means of a fence, wall, or landscaping in compliance with the Woburn Zoning Ordinances. In addition, rodent control measures in connection with any dumpsters shall be in place and maintained.
3. The hours of operation shall be from 6 a.m. to 11 p.m. seven days a week.
4. Employee parking shall be designated along the westerly boundary of the Property as shown on the Site Plan.
5. Signage shall be installed identifying all compact parking spaces.
6. A “Right Turn Only” sign shall be installed at the curb cut on Commerce Way.
7. A “Do Not Enter” sign shall be installed at the curb cut on Commerce Way.
8. The exit curb cut onto Commerce Way shall be designed to discourage any right turn into the site from Commerce Way.
9. The entrance to the drive thru shall be painted on the pavement as shown on the Site Plan and maintained in good condition in perpetuity.
10. The Petitioner shall file a Snow Management Plan with the Building Department prior to the issuance of its occupancy permit. All recommendations of the Building Commissioner in a memo dated March 4, 2022, must be incorporated into this special permit.
11. All parking spaces except for those assigned to Dunkin Donuts employees shall be numbered and lined and maintained in good condition in perpetuity.
12. All parking spaces assigned to Dunkin Donuts employees along the rear lot line shall be designated by signage.
13. The daily delivery of donuts must occur between 12 a.m. – 4 a.m. Weekly delivery of supplies via tractor-trailer must occur between 4-5:30 a.m. or 6-9 p.m.
14. All signage shall comply with Section 13 of the Zoning Ordinance, and all setbacks shall comply with Section 6 of the Zoning Ordinance.
15. Queuing of vehicles shall not be allowed to block travel along Cabot Road. The Petitioner shall install a “Do Not Block Roadway” sign at the Cabot Road entrance.
16. In the event that the queuing of vehicles becomes a problem a police detail will be required. Said police detail shall be coordinated with the Chief of Police for the City of Woburn upon request of the Building Commissioner.
17. The premises shall be cleaned of all trash six times per day.

18. The Petitioner shall provide two (2) covered trash barrels at its entrance to its premises.
19. This Special Permit is granted to Loco Donuts LLC only and is not transferrable.
20. Mitigation for this Special Permit shall be the following:
 - (a) The installation of a Flashing Pedestrian Beacon on Washington Street across from Marilyn Court. Installation of this device shall occur prior to the issuance of occupancy permits, temporary or otherwise.
 - (b) Payment for a one-year extension of the City of Woburn’s License with Ocean State Signal Company; and
 - (c) The purchase of a “performance plus” unit for one intersection in the area of the Property.
21. Directional markings for the drive-through lane must be kept in good and readable condition.
22. The dumpster shall be emptied in accordance with city ordinance.
23. All construction debris shall be cleared at the end of every work day.

As part of the motion, Councilor Mercer-Bruen also offered the following findings:

1. The proposal through the conditions made part of the special permit provides reasonable and appropriate safeguards to the area.
2. The proposal eliminates a two-way curb cut onto Commerce Way by prohibiting right turns into the property and restricting the curb cut to right turns only exiting the property
3. The proposal has been reviewed by Engineering and the Building departments.

Motion approved, 8-1, with Councilor Campbell opposed.

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Motion made by Councilor Mercer-Bruen and seconded by Councilor Demers to adjourn; in favor, 9-0. Chairman Gately adjourned the meeting at 8:57 p.m.

A TRUE RECORD ATTEST

 Gordon Vincent
 Clerk of Committees

