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REMINDER

NOTICE OF MEETING

CITY COUNCIL

Dennis Fiorelli
President
Sara Continenza
Joe Frank
Marty Gelfand
Jane Goodman
Ruth Gray
Justin Tisdale

MEETING OF: **COMMITTEE OF THE WHOLE**
CALLED BY: DENNIS FIORELLI, PRESIDENT
DATE: **SEPTEMBER 23, 2019**
LOCATION: COMMITTEE/JURY ROOM
TIME: 6:30 P.M.
RE: RES. 20-19 BURGER KING
CONDITIONAL USE PERMIT.

COMMITTEE/COUNCIL MEMBERS:

SARA CONTINENZA
JOE FRANK
MARTY GELFAND
JANE GOODMAN
RUTH GRAY
JUSTIN TISDALE

ADMINISTRATION:

BUILDING COMMISSIONER LAURA HEILMAN
ECON. DEVP'T DIRECTOR MIKE LOVE
COMM. SERVICE DIRECTOR KEITH BENJAMIN

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 20-19 May 28, 2019
INTRODUCED BY: Fiorelli
REQUESTED BY: Planning Commission

A RESOLUTION

GRANTING A CONDITIONAL USE PERMIT FOR A DRIVE-THRU FOR "BURGER KING" AT 4525 MAYFIELD ROAD IN THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, "Burger King" proposes to construct a new restaurant at 4525 Mayfield Road and proposes to include a drive-thru as part of the project; and

WHEREAS, in the Mayfield-Green (M-G) District in which this property is located, a conditional use permit is required in order for a business to have a drive-thru; and

WHEREAS, in accordance with Chapter 739 "Mayfield-Green District (M-G)" of the codified ordinances, the application for conditional use was referred to the Planning Commission; and

WHEREAS, notice of a public hearing on the aforesaid requested Conditional Use Permit has been duly given, and a full public hearing has been held thereon by the Planning Commission pursuant to such notice and as prescribed by law; and

WHEREAS, the Planning Commission made a motion to recommend to City Council that such a conditional use permit be issued; and

WHEREAS, in a vote of 1-4-0, the motion failed, justification for this motion failing is provided in the April 25, 2019 and May 9, 2019 Meeting Minutes of the Planning Commission; and

WHEREAS, after careful consideration and study, a majority of the Council of the City of South Euclid deems that the aforesaid Conditional Use Permit should be given in that the standards set forth in Chapter 739 of the South Euclid Zoning Code have been achieved provided "Burger King" follow the conditions as defined below when constructing the drive-thru.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That a Conditional Use Permit is hereby granted to "Burger King" to construct a drive thru at 4525 Mayfield Road in the City of South Euclid, Ohio, per the following conditions:

- Condition 1:** That the Board of Zoning Appeals (hereinafter referred to as the "BZA") decides upon granting relief from Section 739.04(a), where the minimum lot size required is 1 acre. The proposed site is .4663 acres.
- Condition 2:** That the BZA decides upon granting relief from Section 739.04(b), where the minimum lot width required is 150 feet. The proposed site width is 104.49 feet.
- Condition 3:** That the BZA decides upon granting relief from Section 772.18 (Table 2) which requires one parking space for every 20sf of floor area, for a total of 52 parking spaces required for this establishment. As presented, the site plan depicts 9 dedicated parking spaces.
- Condition 4:** That the BZA decides upon granting relief from Section 739(a)(1)(B) which permits shared parking between uses, with the condition that not more than 50% of parking spaces be shared. As presented, the site depicts 9 dedicated parking spaces and 43 shared parking spaces, in order to meet the total of 52 required parking spaces. Thus, 83% of the parking is shared parking.

- Condition 5:** The final approved site plan must comply with Section 772.12 which states that drive-thru stacking spaces shall not block dedicated parking spaces or interfere with the flow of internal circulation, or the BZA decides upon granting relief from requiring compliance with this section.
- Condition 6:** The final approved site plan must comply with Section 739.12(d)(1) which states that pedestrian walkways shall be clearly separated and distinguished from automobile parking spaces and aisles, or the BZA decides upon granting relief from requiring compliance with this section.
- Condition 7:** In accordance with the Traffic Commissioner's review of the site plan, the final approved site plan shall include signage at the drive-thru entrance clearly stating "Drive-Thru Only."
- Condition 8:** In accordance with the Fire Inspector's review of the site plan, and Ohio Fire Code Sections 503.1.2 and 502.2.1, at least one of the access driveways to the site (entrance to drive-thru or exit from drive-thru) on the final approved site plan must be at least 20 feet wide.
- Condition 9:** The final approved site plan shall address the Fire Inspector's concerns that the two 12 foot wide drive-thru lanes entering the site could impair emergency vehicle access to the site, due to vehicle congestion.
- Condition 10:** The applicant shall be required to perform a traffic study prior to receiving final site plan approval.
- Condition 11:** The final approved site plan must be designed in such a way so that traffic from this use will not back up onto Mayfield Road and will not interfere with the ingress/egress of traffic moving throughout Marc's Plaza.
- Condition 12:** Building design, signage and landscaping shall be submitted to the Architectural Review Board for review and approval. If such approval is contingent on any variances being obtained from the BZA, such variances must be obtained before any construction permits would be issued.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Resolution shall take effect and be in full force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2019.

Dennis Fiorelli, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law



COME TOGETHER & THRIVE

Planning Commission

May 21, 2019

Dennis Fiorelli, President of Council
City of South Euclid
1349 South Green Road
South Euclid, Ohio 44121

Dear Dennis:

The Planning Commission on May 9, 2019 made a motion to recommend to City Council approval of the conditional use application for a drive thru at the proposed Burger King, 4525 Mayfield Road with the conditions lined out in the memo from the Building Commissioner, in addition to the following conditions:

1. A traffic study is conducted
2. A plan or method of how the drive thru traffic will not bottleneck and impede ingress or egress traffic and not spill on to Mayfield Rd.

The motion failed in a 1-4-0 vote. Thus, the Planning Commission does not recommend approval of the conditional use application permitting a drive thru at the proposed Burger King, 4525 Mayfield Road. Further justification for this non-recommendation is provided in the April 25, 2019 and May 9, 2019 meeting minutes.

If you have any questions, please feel free to contact me.

Respectfully,

Ashley King
Planning Commission, Chairwoman

cc: Georgine Welo, Mayor
Michael Lograsso, Law Director
City Council Members
Laura Heilman, Building Commissioner
Planning Commissioners



COME TOGETHER & THRIVE

Memo

To: Planning Commission & City Council Members

From: Laura Heilman, Building Commissioner

Re: Burger King (4525 Mayfield Road) Application for Conditional Use (Drive-Thru)

Date: April 30, 2019

As you are aware, the City of South Euclid has received a Conditional Use Application from Gary Rouse, agent for GBC Design Inc, who is agent for Deville Developments, owner of 4525 Mayfield Rd., South Euclid, Ohio, and Carrols Corporation. This application is for a proposed Burger King restaurant, which would include a drive-thru. In accordance with the Codified Ordinances of the City of South Euclid, any proposed drive-thru requires a conditional use permit if located within the Mayfield-Green (M-G) Zoning District.

Based upon my review of the site plan presented and my understanding of the project, I believe Planning Commission should recommend issuance of the conditional use permit to City Council and Council should approve the conditional use permit, based upon the following conditions:

- Condition 1:** That the Board of Zoning Appeals (hereinafter referred to as the "BZA") decides upon granting relief from Section 739.04(a), where the minimum lot size required is 1 acre. The proposed site is .4663 acres.
- Condition 2:** That the BZA decides upon granting relief from Section 739.04(b), where the minimum lot width required is 150 feet. The proposed site width is 104.49 feet.
- Condition 3:** That the BZA decides upon granting relief from Section 772.18 (Table 2) which requires one parking space for every 20sf of floor area, for a total of 52 parking spaces required for this establishment. As presented, the site plan depicts 9 dedicated parking spaces.
- Condition 4:** That the BZA decides upon granting relief from Section 739(a)(1)(B) which permits shared parking between uses, with the condition that not more than 50% of parking spaces be shared. As presented, the site depicts 9 dedicated parking spaces and 43 shared parking spaces, in order to meet the total of 52 required parking spaces. Thus, 83% of the parking is shared parking.

- Condition 5:** The final approved site plan must comply with Section 772.12 which states that drive-thru stacking spaces shall not block dedicated parking spaces or interfere with the flow of internal circulation, or the BZA decides upon granting relief from requiring compliance with this section.
- Condition 6:** The final approved site plan must comply with Section 739.12(d)(1) which states that pedestrian walkways shall be clearly separated and distinguished from automobile parking spaces and aisles, or the BZA decides upon granting relief from requiring compliance with this section.
- Condition 7:** In accordance with the Traffic Commissioner's review of the site plan, the final approved site plan shall include signage at the drive-thru entrance clearly stating "Drive-Thru Only."
- Condition 8:** In accordance with the Fire Inspector's review of the site plan, and Ohio Fire Code Sections 503.1.2 and 502.2.1, at least one of the access driveways to the site (entrance to drive-thru or exit from drive-thru) on the final approved site plan must be at least 20 feet wide.
- Condition 9:** The final approved site plan shall address the Fire Inspector's concerns that the two 12 foot wide drive-thru lanes entering the site could impair emergency vehicle access to the site, due to vehicle congestion. The Fire Inspector may require the applicant to perform a traffic study in order to address these concerns, prior to site plan approval.
- Condition 10:** Building design, signage and landscaping shall be submitted to the Architectural Review Board for review and approval. If such approval is contingent on any variances being obtained from the BZA, such variances must be obtained before any construction permits would be issued.

This memo serves as my recommendation to the Planning Commission and City Council. The Planning Commission and City Council have the authority to modify any or all of these conditions as they see fit and have the ultimate decision-making authority. Please feel free to contact me with any questions.

Memorandum

Date: 4/04/19

To: Building Commissioner Laura Heilman

From: Robert Abele

RE: Burger King 4525 Mayfield

I have reviewed the plans for the new Burger King at 4525 Mayfield Rd. and have the following comment.

1. Due to the unique design of the drive through, the sign marked "Drive-Thru" (E2) should maybe read "Drive-Thru Only". This is so people don't pull into the drive-thru lane thinking they might be able to use this lane to park around the building like most drive-thru's in our City.

City Of South Euclid

Division of Fire

Scott A Sebastian

Inspector

1349 South Green Road

South Euclid, Ohio 44121

Phone: (216) 691-4273

Fax: (216) 381-0656

Departmental Correspondence

Date: April 11, 2019

To: Mrs. Laura Heilman, Building Commissioner
South Euclid Building Department

From: Scott A Sebastian, Fire Inspector
Division of Fire

Re: **Plan Review: Site Plan**
Burger King
Mayfield Road

The Fire Department has reviewed the above captioned and approves the plans as noted below:

1. We have concerns with access to the North side of the building. With two of the three 12 foot lanes designated for drive-thru traffic and one 12 foot lane for exiting we foresee this causing a potential for impairment due to vehicle congestion. We also note that the Ohio Fire Code requires an unobstructed width of not less than 20 feet. We will need to have the exit opening extended to from 12 feet to 20 feet to provide fire department access to the North side of the building.

503.1.2 Additional access. The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

OFC 503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, except for approved security gates in accordance with paragraph (C)(6)(503.6) of this rule, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

2. All work to be done in a safe manner under Ohio Fire Code: *Section 14 – Fire Safety during Construction and Demolition.*

3. At no time shall work interfere with the life safety of the occupants of the building.

Planning Commission

April 25, 2019

- 4525 Mayfield Rd, Burger King, conditional use application, drive thru, public hearing

Chairperson King called the meeting to order at 7:02 pm at the South Euclid Community Center. Members present: Ramon Adams, Randy Bowling, Dan Ivins, Dan Monroe. Also present: Michael Love, Economic Development Director, City of South Euclid.

4525 Mayfield Rd. – Burger King- Conditional use application, drive thru- public hearing:

Chairperson King opened the public hearing.

Applicant, Gary Rouse, GBC Design, was present for the meeting and spoke to the board. Bob Storie was also present representing Carroll's LLC, who owns 1000 Burger King's. John Rambader, attorney for Carroll's LLC, was also present. Mr. Rouse stated that they applied for the conditional use permit as it required for a drive thru and 70 percent of Burger King business is through the drive thru window.

Burger King is keeping the building 10 feet off the right of way to meet code and be sensitive to pedestrian traffic. The walkway was shown to board members on the site plan that was submitted.

Board members addressed the following with Mr. Rouse:

Mr. Bowling asked if they are familiar with language in ordinance for the district for pedestrians. He also addressed concerns over fire code lane size per review from the Fire Inspector.

Mr. Ivins addressed the concern with exits and the possibility of traffic back up.

Mr. Adams asked where the waiting areas will be if an order is not ready. No plan in place at this time.

Mr. Rouse stated they will comply with fire code even if it means taking the drive thru down to one lane.

Chairperson King asked if there is a plan for a traffic study. Mr. Rouse stated there is not one planned. Also addressed was the shared parking issue; is it possible to get to

50% space requirement. There is no way for Burger King to meet this number; would have to go from 9 to 26 spaces to meet the code.

How would Burger King mediate drive thru stacking if they only have one drive thru? Mr. Rouse stated they could move the order station up 2 cars; order car, then car, car behind.

Mr. Monroe asked about the hours for the drive thru. Hours will be 6 am – 12 am.

There was a discussion on number of employees that will be there during regular hours; will be 6-7 and will drop to 5 after the dining room is closed. Representatives assured the board that the employees will not park in the shared spaces.

There was a short discussion on the plan for the lighting of drive thru. Lighting plan will be submitted when the plan goes before the Architectural Review Board.

Chairperson Kings asked how the applicant feels Burger King aligns with the Mayfield Green district. Mr. Storie stated the front of the building will have stone towers to assimilate and also pointed out other fast food in the area.

2 email comments from Eileen Dignan (no address given) and Kristin Canfield, 1112 Argonne, were read aloud and submitted for the record.

Public comments:

· Madeline Pollack, 1574 Sheffield Rd, South Euclid, stated that she is opposed to anything on the location, she wants to keep it greenspace. Ms. Pollack feels it will block the view of the rest of the shopping plaza; it is the last thing we need there. The city needs the greenspace; there is no greenspace at Oakwood Commons or Cedar Center.

· Wendy Miller, 1616 S Belvoir, South Euclid, stated that she does not care what business goes into the space, but agrees that the city needs more tax revenue so she wants to see a business there. She does not see the greenspace ever being used. She is fine with business there that generates taxes.

· Jerry Herman, 30100 Chagrin Blvd, had some questions on the site plan regarding cross access, and easements to access. He has concerns with stacking and the size of the property.

· Robert Grossman, 4053 Ellison, South Euclid, asked what guarantees that the Cedar Rd. Burger King won't close if this one opens? Mr. Grossman feels other options are more viable without drive thrus for this space.

· Carol Fiorelli, 4533 Mackall, stated she is speaking as a resident, but she is also the chair of ONE South Euclid. Ms. Fiorelli wanted to remind everyone of the vision for the May Green district. A lot of work was done with Yard & Co. for the study. She wants everyone to think of the sense of place and what it is working toward achieving; to revitalize the area to make it a destination.

· Inez Henry, 4316 Norma, South Euclid, stated that she is concerned with the traffic; there is too much congestion already with May/Green area. She agrees with Ms. Fiorelli on focusing on the future vision. She has seen many accidents at Marc's Plaza recently and feels this will only make it worse.

· Board asked if they can get a copy of police traffic accidents for the area.

· Sarah Continenza, 4222 Bexley, South Euclid, stated that she has been engaging with the community on the subject. Ms. Continenza read a comment from resident Sal Miroglotta that was sent via e-mail opposing the Burger King. E-mail document printed and submitted for the record. She read other comments opposing that was on social media. Ms. Continenza stated that more traffic and more accidents mean more police that takes away from the taxes. Think of the vision for the future, there are no sit in dine in restaurants in South Euclid and at Marc's busy times there is no extra parking.

· Dennis Fiorelli, 4533 Mackall, South Euclid, Council President, thanked all for coming and giving their input. He was here to observe and gain insight.

Chairperson King made a motion to close the public hearing for 4525 Mayfield Rd, conditional use application, Burger King, drive thru. Mr. Bowling seconded. All ayes. (5-0-0).

Mr. Ivins made a motion to approve the April 11, 2019, Planning Commission minutes. Chairperson King seconded. All ayes. (5-0-0).

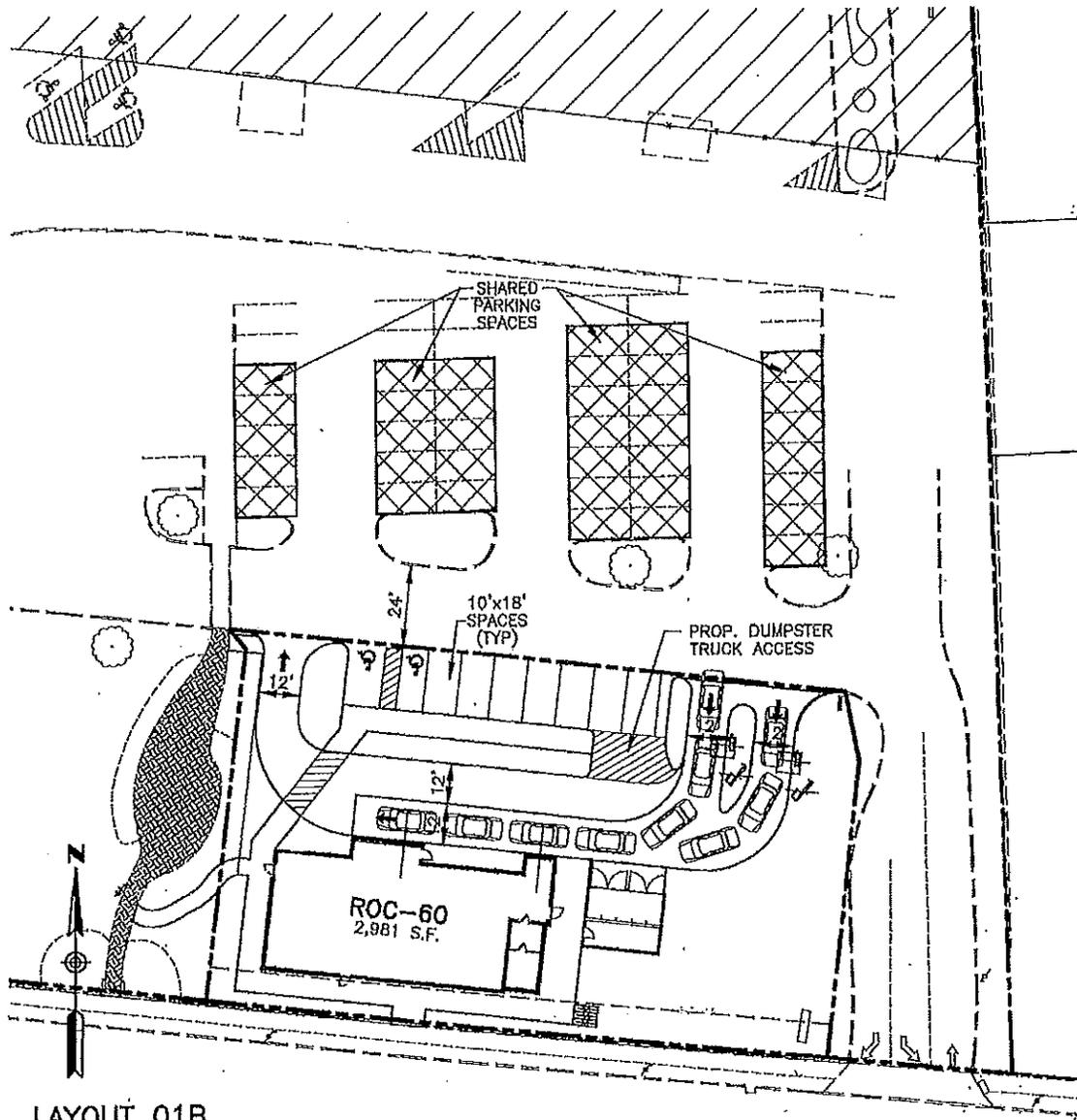
Mr. Ivins made a motion to close the April 25, 2019, Planning Commission meeting. Chairperson King seconded. All ayes. (5-0-0).

Meeting adjourned: 7:45 pm

Chairperson Ashley King

Date

Monica Ferrante, Recording Secretary



LAYOUT 01B

PROP. BURGER KING
 MAYFIELD ROAD
 SOUTH EUCLID, OH
 09-07-18
 JOB #50192

SCALE: 1" = 40'

MAYFIELD ROAD (S.R. 322) 80' R/W