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Zoning Enforcement Officer

INTERDEPARTMENTAL COMMUNICATION

To: Steve Ledoux, Town Manager
Board of Selectmen
Date: April 17, 2013

From: Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner

Subject: Site Plan Special Permit Application #03/05/13-441 (Gowing)
USE Special Permit for Restaurant in excess of 10 seats
252 Main Street, Panera, LLC. c/o Jennifer A. Richter

Location: 252 Main Street, Acton, MA
Applicant: Panera, LLC. c/o Jennifer A. Richter, 3630 South Geyer Road, Suite 100,
Saint Louis, Missouri 63127
Owner: The Stop and Shop Supermarket Company, LLC., 1385 Hancock Street,
Quincy, Massachusetts 02169
Engineer: Core States Group, 179 Sidney Street, Cambridge, MA 02139
Architect: Arc Vision, Inc., 1950 Craig Road, Suite 300, St. Louis, MO 63146
Previous Site Plans: #01/02/73-0055: Construct New McDonald's Restaurant
#01/30/75-0096: Construct General Retail Use Building
#03/13/81-0204: Construct McDonaldland Park
#02/09/82-0215: Construct Playland Addition to Existing McDonald's Rest.
#11/07/94-0348: Construct 800 ft² Addition to Existing McDonald's
Previous BOA #75-19: Petition for Review – Denied
Hearings: #98-14: Variance for Signage – Denied
#80-6: Variance to Construct New Entrance/Vestibule
Zoning: Kelley's Corner (KC)
Groundwater Protection District Zone 4
Proposed Uses: Restaurant – Panera Bread Company
Map/Parcel: F-3/116, 129-1 and 139
Hearing Date: April 22, 2013
Decision Due: July 21, 2013

Attached are the legal ad, application, plan sheets, and interdepartmental review comments received to date. As of this date, comments have been received from the Town of Acton's Engineering Department, Sidewalk Committee, Water Supply District of Acton and Building Department. Upon review of the submitted documents and comments received to date and with the exception of the Planning Department's comments which follow in detail, it does not appear that any of the disciplines have significant issues or questions pertaining to the issuance of this Site Plan Special

Permit. The comments and concerns provided by municipal disciplines (other than those from the Planning Department) could potentially be incorporated into a Decision as plan modifications and/or conditions. A full and complete review of building permit plans will be undertaken by the Building and Fire Departments to ensure full compliance with specific Building and Fire Code issues and concerns.

The application as currently submitted, proposes to demolish an existing building (previously a McDonald's Restaurant) and construct a new restaurant. The new structure would be occupied by Panera Bread, would be approximately 4,100 square foot in building footprint area, and would have 129 total seats (99 seats inside the restaurant facility and 30 outdoor seats in a proposed patio area). As per the Town of Acton Assessor's Office information, the entire subject site consists of approximately 6.39 acres (278,349 square feet). However, the subject Site Plan Special Permit pertains to a smaller "lease area" which is approximately 2.51 acres (109,336 square feet) in area. The width of the "lease area" is 108'-0" of frontage directly along Main Street (Route 27) and is located within the Kelley's Corner Zoning District.

The Site Plan and the Zoning Bylaw:

5.6.2 The following standards shall apply to all LOTS in the KC District:

5.6.2.1 The Site Plan Special Permit Granting Authority shall require sidewalks along the LOT'S FRONTAGE on a STREET or STREETS and walkways between BUILDING entrances and the nearest STREET or STREETS with minimal interruption by driveways. Parking lot aisles, and access and interior driveways do not count as walkways;

Although a sidewalk, approximately 6'-0" in width, currently exists, please proceed to Section 5.6.3 and 5.6.3.1 of the Bylaw which become applicable in this specific instance.

5.6.3 The following standards shall apply on all LOTS in the KC District where the FLOOR AREA RATIO exceeds 0.20:

5.6.3.1 The Sidewalk – A sidewalk shall be provided along the LOT'S FRONTAGE on a STREET or STREETS. The sidewalk shall be at least 10 feet wide. Sidewalks may be located wholly or partially within the STREET layout. The sidewalk shall be separated from the vehicular roadway with a landscaped buffer at least 10 feet wide, which shall consist of shade trees placed at 40-45 foot intervals and other landscaping or STREET design elements, and which may consist in part of on-STREET vehicular parking spaces.

As previously mentioned, an approximately 6'-0" wide bituminous concrete sidewalk does exist across the frontage of the subject property. However, based upon the nature of the subject Site Plan Special Permit application, this Bylaw requirement must be satisfied as part of the application. This Zoning Bylaw requirement is not something which the Special Permit Granting Authority has the power or option of waving. This Zoning Bylaw requirement has not been addressed.

5.6.3.4 BUILDING Design –

- a) At least 60 percent of the front side of a LOT facing a STREET, measured in percentage of linear feet of the LOT FRONTAGE, shall be occupied by BUILDINGS or by a pedestrian plaza that are located within 40 feet of the STREET sideline. A reduction of this requirement to 50 percent of the front side of a LOT may be allowed provided the Site Plan Special Permit Granting Authority finds that the alternative design features are consistent with Section 5.6.1 of this Bylaw.

The "lease area" frontage is identified as being 108'-0" which requires a minimum 64'-10" (60%) wide building(s) or pedestrian plaza to be located within the first 40'-0" of the property. The building, as currently proposed, is 54'-3½" in width (50.2%), which could be acceptable, should the Site Plan Special Permit Granting Authority find that the proposed is consistent with Section 5.6.1 of the Bylaw (copy of which is attached to this memo).

- b) BUILDINGS shall be of a design similar to the architecture in historic commercial centers of New England in terms of scale, massing, roof shape, spacing and exterior materials. Alternative designs may be allowed provided the Site Plan Special Permit Granting Authority finds the alternative design is consistent with Section 5.6.1 of the Bylaw.

The building as currently proposed, does not comply with this requirement. However, as stated in the Zoning Bylaw, the Site Plan Special Permit Granting Authority has the ability to make a finding that the proposed building and design is consistent with Section 5.6.1 of the Bylaw (copy of which is attached to this memo).

- c) BUILDING facades facing STREETS or pedestrian plazas are also referred to herein as the BUILDING front(s) or BUILDING front facade(s). Such BUILDING fronts shall have a vertical orientation, meaning either that the BUILDING shall actually have a greater height than width, or that the facades and roof lines of the BUILDING are designed to reduce the massing and bulk so that it appears as a group of smaller masses with a distinct vertical orientation.

The building as currently designed and proposed, does not comply with this requirement. The building as currently designed, is 54'-3½" in width, approximately 16'-0" in height to the flat roof and approximately 23'-11" in height to the top of the parapet. This is a Zoning Bylaw design requirement, which in this instance, must be satisfied as part of the application. This Zoning Bylaw requirement is not something which the Special Permit Granting Authority has the power or option of waving. This Zoning Bylaw requirement has not been addressed.

- d) The BUILDING front facades shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, detailing and contrasting shapes is required. Not more than 50 feet of a BUILDING front shall be in the same vertical plane.

The building as currently designed and proposed, does not comply with this requirement. The building as currently designed, has an overall proposed width of 54'-3½". Although Staff does acknowledge that there is an approximately 2" offset at the location where the highest projection of the parapet is located, this is not sufficient to consider the design as having different and separate vertical planes. This is a Zoning Bylaw design requirement, which in this instance, must be satisfied as part of the application. This Zoning Bylaw requirement is not something which the Special Permit Granting Authority has the power or option of waving. This Zoning Bylaw requirement has not been addressed.

- e) The BUILDING front facade(s) shall be faced with materials used in historic New England architecture. Alternative materials may be used on the BUILDING front facade(s) provided that the Site Plan Special Permit Granting Authority finds the materials to be consistent with Section 5.6.1 of the Bylaw.

The building as currently proposed, does not comply with this requirement. However, as stated in the Zoning Bylaw, the Site Plan Special Permit Granting Authority has the ability to make a finding that the proposed building and design is consistent with Section 5.6.1 of the Bylaw (copy of which is attached to this memo).

- f) On the BUILDING fronts, the ground floor shall be occupied, or designed to be available for occupancy, by Retail Stores; Restaurants; Hotel, Motel, Inn, Conference Center; Lodges or Clubs; Bed & Breakfast; Services; Commercial Entertainment; real estate agencies; insurance agencies; travel agencies; law offices; medical and dental offices; walk-in clinics; small equipment repair services; tailors; or photography studios.

Ok. Requirement is complied with. The proposed building would be the future location of Panera Bread (restaurant use as classified under the Zoning Bylaw).

- g) The main business entrance to each ground floor business, identified by the larger doors, signs, canopy or similar means of highlighting, shall be from the BUILDING front.

Ok. Requirement is complied with. As currently proposed, the main entrance into the restaurant is located at the southeast corner of the building with identical sets of doors providing direct access inside from either the south (parking lot) and east (Main Street a/k/a Route 27) sides of the building.

- h) Grocery retailers with a NET FLOOR AREA larger than 20,000 square feet may have a second main entrance in another location, for instance towards a parking lot in the rear or the side of a BUILDING.

Ok. This requirement is not applicable in this instance. The proposed use is Panera Bread (restaurant use as classified under the Zoning Bylaw).

- i) Arcades and canopies shall not be considered part of the BUILDING. Arcades and canopies may not be located within 10 feet of the sideline of a STREET unless the Site Plan Special Permit Granting Authority finds that the reduction in setback to the sideline of the STREET is consistent with Section 5.6.1 of the Bylaw.

Ok. This requirement is not applicable. There are no arcades or canopies proposed as part of the current application.

- j) The BUILDING front(s) shall contain windows covering at least 15 percent of the facade surface. Windows shall be highlighted with frames, lintels and sills or equivalent trim features. Windows and doors shall be arranged to give the facade a sense of balance and symmetry.

There are no calculations provided with the current application submission to address this design requirement. Additionally, the current design of the proposed building does not satisfy the condition requiring “windows and doors shall be arranged to give the facade a sense of balance and symmetry”. This is a Zoning Bylaw design requirement, which in this instance, must be satisfied as part of the application. This Zoning Bylaw requirement is not something which the Special Permit Granting Authority has the power or option of waving. This Zoning Bylaw requirement has not been addressed.

- k) Except for ground level display windows, windows shall have a 2:1 ratio of height to width. Alternative window designs may be allowed provided the Site Plan Special Permit Granting Authority finds them to be consistent with Section 5.6.1 of the Bylaw and that they enhance one or more architectural features.

Ok. This requirement is not applicable. The proposed structure is a single story building.

- l) On the ground level portion of the BUILDING front, the amount of windows in the facade surface shall be at least 20 percent but not larger than 80 percent. Ground floor display windows shall be framed on all sides by the surrounding wall. They shall be highlighted with frames, lintels and sills or equivalent trim features, or may instead be recessed into the wall or projected from the wall.

There are no calculations provided with the current application submission to address this design requirement. The building as currently designed and proposed, does not appear to satisfy this design requirement. This is a Zoning Bylaw design requirement, which in this instance, must be satisfied as part of the application. This Zoning Bylaw requirement is not something which the Special Permit Granting Authority has the power or option of waving. This Zoning Bylaw requirement has not been addressed.

- m) Mirror windows and highly reflective surfaces shall not be allowed on the BUILDING fronts.

The proposed building plans as currently submitted do not indicate whether or not this requirement is satisfied or complied with. This information should be added to any future plans and be addressed prior to any approval.

- n) Roofs shall be gabled with a minimum pitch of 9/12 (9" vertical for every 12" horizontal) and have overhanging eaves of at least one foot. Two or three story BUILDINGS, or two or three story portions of a BUILDING, may have a flat roof provided that the tops of the BUILDING front facades are treated with an articulated cornice, dormers, or other architectural treatment that appears an integral part of the BUILDING from all visible sides of the BUILDING.

The building as currently proposed, does not comply with this requirement. The proposed structure is a single story building with a flat roof and an approximately 6'-3" high parapet around the majority of the building. The proposed parapet extends to an overall maximum height of approximately 23'-11" in the southeast corner of proposed structure. This is a Zoning Bylaw design requirement, which in this instance, must be satisfied as part of the application. This Zoning Bylaw requirement is not something which the Special Permit Granting Authority has the power or option of waving. This Zoning Bylaw requirement has not been addressed.

- o) The main features of the architectural treatment of the BUILDING front facades, including the materials used, shall be continued around all sides of the BUILDING that are visible from a STREET or a pedestrian plaza. The Site Plan Special Permit Granting Authority may approve alternate treatment of side and rear BUILDING walls that is consistent with Section 5.6.1 of the Bylaw and preserves the architectural integrity of the BUILDING as a whole.

Ok. Requirement is complied with. The proposed building as currently applied for, seems to comply with this design requirement.

- p) Garage doors or loading docks shall not be allowed in the BUILDING fronts.

Ok. Requirement is complied with. The proposed building as currently applied for does not identify any garage doors to be installed, and there is an access door in the rear northwest corner of the building near the trash enclosure which would presumably be utilized for significantly sized deliveries.

- q) BUILDING service and loading areas shall incorporate effective techniques for visual and noise buffering from adjacent USES.

As previously identified under the preceding requirement, significantly sized deliveries of foods, etc. for the proposed restaurant use which are being delivered to

the rear back corner of the proposed building, would not result in adversely affecting adjacent properties. The closest adjacent use to the proposed restaurant is the Verizon building which is located directly on the southwest corner of the Massachusetts Avenue and Main Street (Route 27) intersection.

- r) Accessory STRUCTURES, air conditioning equipment, electric utility boxes, satellite dishes, trash receptacles and other ground level utilities shall be unobtrusive when viewed from the STREET and adjacent LOTS.

Ok. The proposed building as currently applied for, a separate proposed trash enclosure and a proposed transformer seems to all comply with this design requirement at this time.

- s) Rooftop mechanical equipment shall be screened from public view by the use of architecturally compatible materials.

The proposed building plans as currently submitted do not indicate whether or not this requirement is satisfied or complied with. The current design which incorporates a flat roof and an approximate 6'-3" parapet surrounding the majority of the building would seem to provide for compliance with this requirement. However, based upon other previously identified design requirements which must be addressed, specifically the requirement of a 9/12 minimum pitched gable roof, it is unclear as to whether or not this requirement could be satisfied.

Other Planning Department comments:

- The currently proposed patio is screened and/or separated from public view and/or interaction with pedestrians by cedar wood "screens" (details of which are not provided in the current submission). The current design creates a physical barrier and provides a distinct sense of separation from the public sidewalk/space. This does not create and provide for a sense of walkable or a pedestrian friendly Kelley's Corner.
- It would be beneficial to provide bike racks as part of the application to offer alternative modes of transportation.
- As identified in the Engineering Department's comments, the proposed use triggers the requirements for providing a traffic study/analysis. It would be beneficial to have the Applicant conduct a comprehensive traffic study for the entire Kelley's Corner area in the context of the existing conditions as well as projections (looking approximately 5 years out) with the currently proposed use open and conducting business. The study could address volumes of traffic in all directions, turning movements, bicycles, weekday volumes, weekend volumes, etc. The study could provide valuable current data/information to help guide future long-term Kelley's Corner planning objectives. The traffic study could also discuss and suggest possible mitigation measures. The applicant could also provide a monetary contribution which could be utilized for traffic mitigation measures within the Kelley's Corner area.