



# CITY OF SALEM PLANNING BOARD

---

## **Decision**

### **Site Plan Review and Drive-Through Facilities Special Permit 250 Highland Ave (Map 8, Lot 118) and 260 Highland Ave (Map 8, Lot 117)**

**July 30, 2024**

Re: Application of Joseph Correnti f/b/o PN Restaurants for the property located at 250 Highland Avenue (Map 8, Lot 118) and 260 Highland Avenue (Map 8, Lot 117) in the B2 (Business Highway) and ECOD (Entrance Corridor Overlay District) Zoning Districts for Site Plan Review and a Special Permit in accordance with the following sections of the Salem Zoning Ordinance: Section 9.5 Site Plan Review and Section 6.7 Drive-Through Facilities. Further, the applicant is requesting one waiver of Section 6.7.6 of the Ordinance requirements: Standard 1: 200 feet between curb cuts.

Specifically, the applicant proposes a new 1,995 square-foot Popeye's Louisiana Kitchen restaurant with a drive-through lane, associated parking, and landscaping. Site access will be provided through a right-in/right-out driveway on Highland Avenue and an exit-only driveway and entrance-only driveway on Verona Street. Internal circulation in the site will be one-way and operate in a counter-clockwise direction via the drive-through lane and adjacent bypass lane. The site will include 18 parking spaces and two (2) bike racks. Re-grading on the site is proposed along with reducing impervious surfaces for stormwater management.

### **Procedural History**

1. An application for a Site Plan Review and Special Permit under Sections 9.5 and 6.7 of the City of Salem Zoning Ordinance was made by Joseph Correnti f/b/o PN Restaurants and filed with the Planning Board on April 18, 2024.
2. A notice of public hearing was first issued on May 2, 2024.
3. The Planning Board of the City of Salem opened the public hearing on May 16, 2024, and the public hearing was continued to June 6, 2024 (no testimony), June 20, 2024, July 11, 2024, and July 25, 2024.
4. During the public hearing process, the entrance-only driveway on Verona Street was removed. The applicant submitted a revised "Site Plan Review Submission" plan set on June 10, 2024, which first makes this change. All plans submitted since this date incorporate this revision. As such, the planning board based their decision on a site plan that does not include an entrance-only driveway on Verona Street.
5. On July 19, 2024, the City contracted with New England Civil Engineering (NECE) to provide an independent peer review of the proposed development plans including stormwater management and drainage for all discharges and connections to the City of

Salem MS4 drainage system, and onsite engineering issues covered by the City of Salem “engineering rules and regulations for site plan review and building permit routing slip sign off” checklist” per the tasks identified in the proposal dated May 28, 2024.

6. The Planning Board closed the public hearing on July 25, 2024.
7. The plans and other submission material were reviewed by the Planning Board. Throughout its deliberations, the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearing.

## **Specific Findings**

The Planning Board, after a public hearing and review of submitted materials and testimony, hereby finds that the proposed amendment to the previously approved project meets the provisions of the City of Salem Zoning Ordinance, Sec. 9.5 Site Plan Review and Sec. 6.7 Drive-Through Facilities as follows:

### **Site Plan Review Findings**

The Planning Board finds that the proposed project as conditioned complies with all review criteria as identified in Site Plan Review, Sec. 9.5.6. The Plan meets accepted site planning standards and promotes standards such that the development takes place in a manner which shall in all aspects be an asset to the City.

### **Drive-Through Special Permit Findings**

The subject property is located at 250 Highland Ave (Map 8, Lot 118) and 260 Highland Ave (Map 8, Lot 117). The applicant proposes a drive through restaurant with newly constructed building and the creation of a right-in/right-out driveway on Highland Ave and exit-only driveway on Verona St, facilitating counterclockwise internal circulation with a bypass lane. The project also includes additional landscaping, improved stormwater management, re-grading, 18 parking spots, and two (2) bike racks. This proposed design aligns with other commercial uses along Highland Avenue and is estimated to not have a significant impact on the overall traffic operations or safety of the adjacent roadways and intersections. During the course of review, the applicant updated their site plan to remove the originally proposed entrance-only driveway on Verona Street, modified the specifications of the exit-only driveway on Verona Street, relocated one (1) parking space, included a mountable curb and expanded island, and modified the plantings proposed.

The proposed right-in/right-out entrance on Highland Avenue is located approximately 100 feet away from either curb cut associated with the adjacent properties along Highland Avenue. The applicant also proposes one curb cut on the abutting one-way road, Verona Street, which is located approximately 100 feet away from the intersection with Highland Avenue. The driveway on Verona Street will be limited to use only by larger vehicles, such as fire apparatus or garbage trucks. The applicant’s traffic impact study, which solely considered site access through Highland Avenue, notes that the impacts to traffic at the Highland Avenue driveway would be minimal. Therefore, this waiver from the minimum of two hundred (200) feet between curb cuts, as stated

in the Section 6.7.6., Standards, is not a detriment to the public good and does not substantially derogate from the intent and purpose of the Drive-Through Facilities Special Permit.

**Decision**

In view of these findings, the Planning Board decided at a regularly scheduled meeting on July 25, 2024, by a vote of seven (7) (Chair Bill Griset, Kirt Rieder, Carole Hamilton, Jonathan Berk, Zach Caunter, Josh Turiel, and Tom Furey) in favor, zero (0) opposed, and one (1) abstained (Helen Sides), to approve the proposed project subject to the following conditions:

**1. Conformance with the Plan**

- a. Work shall conform to “Site Plan Review Submission Popeyes Salem” with the sheets listed below (the “Plans”):

Drawing Title	Sheet No.	Prepared By	Issued	Revised
Context Plan	2	DiPrete Engineering	4.15.24	7.18.24
Notes and Legend	3	DiPrete Engineering	4.15.24	7.18.24
Boundary and Topographic Plan	4	DiPrete Engineering	4.15.24	7.18.24
SESC and Demo Plan	5	DiPrete Engineering	4.15.24	7.18.24
Site Layout Plan	6	DiPrete Engineering	4.15.24	7.18.24
Grading and Utilities	7	DiPrete Engineering	4.15.24	7.18.24
Detail Sheet I	8	DiPrete Engineering	4.15.24	7.18.24
Detail Sheet II	9	DiPrete Engineering	4.15.24	7.18.24
Detail III	10	DiPrete Engineering	4.15.24	7.18.24
Fire Truck Turning Plan	11	DiPrete Engineering	4.15.24	7.18.24
Landscape Plan	12	DiPrete Engineering	4.15.24	7.25.24
Landscape Notes and Details	13	DiPrete Engineering	4.15.24	7.18.24
Photometric Lighting Plan	1	LSI Industries	4.15.24	7.18.24
Renderings		HFA	4.15.24	6.5.24
Exterior Elevations	A5-5.1, PB-2	G141 Architecture	4.15.24	7.18.24
Exterior Specifications	PB-3	G141 Architecture	5.24.24	7.18.24
Rendering	RE-1	G141 Architecture	5.24.24	7.18.24

Elevations				
1x1 Digital Pre-Sell Spec		LSI Industries	10.3.19	
1x3 Digital Drive-Through		LSI Industries	10.3.19	

**2. Amendments**

- a. Any proposed future changes to the site plan shall be submitted to the City Planner for their review, prior to any changes in the field. The submission shall include a plan sheet with all changes from the plans approved by the Planning Board bubbled, noted, and stamped by a licensed professional engineer or architect. This submission shall also include a brief narrative explaining the proposed changes. If deemed necessary by the City Planner, these amendments shall be brought to the Planning Board. Any waiver of conditions contained within shall require the approval of the Planning Board.

**3. Transfer of Ownership**

- a. In the event of the transfer of the site as a whole, within five (5) days of such transfer, the Owner shall notify the Board in writing of the new owner’s name and address. The terms, conditions, restrictions, and/or requirements of this decision shall be binding on the Owner and its successors and/or assigns.

**4. Site Specific Conditions**

- a. If an HVAC unit is located on the roof or at grade on site, it shall be visually screened. The method for screening the unit shall be submitted to the City Planner for review and approval prior to installation. Approved method for screening shall be constructed and installed prior to the issuance of a Certificate of Occupancy.
- b. Any dumpsters and compactors located on the site shall be visually screened. The method for screening the unit shall be submitted to the City Planner for review and approval prior to installation. Approved method for screening shall be constructed and installed prior to the issuance of a Certificate of Occupancy.
- c. Prior to issuance of a Building Permit, the applicant shall submit a revised landscaping plan to the City Planner for review and approval that substitutes all tree lilacs with one of the four species: American hophornbeam, redbud, serviceberry, or sweetbay magnolia.
- d. The curbing for the exit-only driveway shall be sloped granite Cape Cod curbing.

**5. Pre-Construction Conference**

- a. Prior to mobilizing equipment on site for the start of work, a pre-construction conference as necessary shall be scheduled with the City Planner, the City Engineer (or their designee), the Building Commissioner, the Health Agent, Tree Warden and any other departments that may be necessary. The Owner shall submit a construction schedule at the time of the pre-construction conference. The schedule shall include a description of how construction will be phased and staged and what the impacts will be to the sidewalks and roadways.

**6. Traffic & Circulation**

- a. To ensure that safe vehicular, bicyclist, and pedestrian circulation is maintained throughout construction, applicant shall submit to the City Planner, prior to issuance of a Building Permit, a plan detailing site access for construction vehicles, material delivery, debris removal, and any other vehicular activity associated with the project's construction via the right-in/right-out driveway on Highland Avenue.
- b. The developer shall coordinate construction activities with the City Engineer.
- c. The owner shall contribute \$13,500 to the City of Salem Transportation Enhancement Fund (TEF), commensurate to the project's impact on the City's transportation network, prior to issuance of a Certificate of Occupancy. The TEF will be used by the city for transportation network services relating to infrastructure and or operation of the transportation network.

**7. Sustainability and Resiliency**

- a. Prior to issuance of a Building Permit, the developer shall submit a revised Net Zero Energy Questionnaire to the Sustainability & Resiliency Director for review.

**8. Landscaping**

- a. An as built landscaping plan accompanied with a letter from a Registered Landscape Architect or certified arborist certifying compliance of the landscaping with the approved plan shall be submitted to the City Planner prior to issuance of the Certificate of Occupancy.
- b. Maintenance of all landscaping on the site shall be the responsibility of the Applicant indefinitely, its successors or assigns, and any tree or shrub that does not survive shall be replaced.
- c. Each tree shall have a minimum of 700 cubic feet of planting soil, due to existing ledge.

**9. Maintenance**

- a. Refuse removal, ground maintenance, and snow removal shall be the responsibility of the applicant. "Refuse removal" includes recycling, which shall be the responsibility of the owner, successors, or assigns. The owner shall provide adequate facilities to ensure all users are able to recycle their trash. Owner is to enter into a contract with a company of the owner's choice to arrange pick-up of recyclable material. A copy of this contract is to be submitted to the City Engineer.
- b. Winter snow in excess of snow storage areas on the site shall be removed off- site.

**10. Fire Department**

- a. All work shall comply with the requirements of the Salem Fire Department.

**11. Building Inspector**

- a. All work shall comply with the requirements of the Salem Building Inspector.

**12. Board of Health**

The owner shall comply with the following specific conditions issued by the Board of Health:

- a. The individual presenting the plan to the Board of Health must notify the Health Agent of the name, address, and telephone number of the project (site) manager who will be on site and directly responsible for the construction of the project.
- b. If a DEP tracking number is issued for this site under the Massachusetts Contingency Plan, no structure shall be constructed until the Licensed Site Professional responsible for the site meets the DEP standards for the proposed use.
- c. A copy of the Licensed Asbestos Inspector's Report must be sent to the Health Agent.
- d. A copy of the Licensed Lead Inspector's Report must be sent to the Health Agent.
- e. A copy of the Demolition Notice sent to the DEP, Form BWPAO6, must be sent to the Health Agent.
- f. The developer shall adhere to a drainage plan as approved by the City Engineer.
- g. The developer shall employ a licensed pesticide applicator to exterminate the area prior to construction, demolition, and/or blasting and shall send a copy of the exterminator's invoice to the Health Agent.
- h. The developer shall submit a plan for rodent control to the Health Agent and maintain the area free from rodents throughout construction.
- i. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- j. The developer shall submit to the Health Agent a written plan for containment and removal of debris, vegetative waste, and unacceptable excavation material generated during demolition and/or construction.
- k. In accordance with Board of Health Regulation #7, the developer shall ensure that the trash contractor offer mandatory recycling to the development.
- l. The Fire Department must approve the plan regarding access for firefighting.
- m. Noise levels from the resultant establishment(s) generated by operations, including but not limited to refrigeration and heating, shall not increase the broadband sound level by more than 10 dB(A) above the ambient levels measured at the property line.
- n. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- o. The resultant establishment shall dispose of all waste materials resulting from its operation in an environmentally sound manner as described to the Board of Health.
- p. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.
- q. Plans and a menu for the proposed restaurant must be submitted to the Health Agent for review and approval prior to issuance of a Building Permit.
- r. The trash area must be enclosed in accordance with City Ordinance.

### **13. City Engineer & Utilities**

- a. All work shall comply with all requirements of the City Engineer.
- b. All work shall comply with the Engineering Rules and Regulations.
- c. The applicant shall comply with all the recommendations from the civil peer review

letter, to be issued by New England Civil Engineering.

- d. The applicant must comply with conditions 13a through 13c prior to the Engineering Department sign-off on any building permits (including but not limited to building, foundation, demolition, etc.) and/or the issuance of any permits from the Engineering Department.

#### **14. Engineering Clerk of the Works**

- a. A Clerk of the Works shall be provided by the City, at the expense of the Applicant, their successors or assigns, as it is deemed necessary by the City Engineer. Accordingly, it is the understanding of the Board, the City Planner, the City Engineer, and the Applicant, that the Clerk of the Works is expected to oversee and review all civil and site improvements related to the Project, including, but not necessarily limited to:
  - i. All utility cut and caps related to the City's Demolition Permit;
  - ii. All new utility installations;
  - iii. All connections to, extensions of, or improvements to publicly owned infrastructure both on the Applicant's site or within the City's right of way and any on-site stormwater or wastewater systems;
  - iv. All new installations or modifications to existing pavement, sidewalk, and curbing; and
  - v. All conditions placed on the project by an Order of Conditions from the Salem Conservation Commission.
- b. The Clerk of the Works shall review and approve all proposed, or approved, changes to the original Planning Board decision.
- c. The Applicant shall submit a construction plan that includes a detailed sequence and schedule of all construction activities related to the Clerk of the Works' purview. Once the construction plan is approved, it shall be used to create a Task Order for the Clerk of the Works.
- d. No work, including blasting, demolition, excavation, and grading shall start before an approved task order for the Clerk of the Works' services has been agreed upon and approved by all parties.

#### **15. Construction Practices**

- a. All construction shall be carried out in accordance with the following conditions:
  - i. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
  - ii. All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of demolition and construction of the project.
  - iii. Drilling and blasting shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no drilling, blasting or rock hammering on Saturdays, Sundays, or state and federal holidays. Blasting shall be undertaken in accordance with all local and state regulations.
  - iv. All construction and staging will occur on site. No construction will occur

- or be staged within City right of way. Any deviation from this shall be approved by the Department of Planning & Community Development prior to construction.
- v. Prior to issuance of a demolition, foundation, or building permit, the Applicant shall provide a detailed construction vehicle access, schedule, and traffic plan for review and approval by the Director of Traffic & Parking
  - vi. Any roadways, driveways, sidewalks, or landscaping damaged during construction shall be restored to their original condition by the applicant.
  - vii. All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways as they leave the site.
  - viii. All construction shall be performed in accordance with the Rules and Regulations of the Planning Board, and in accordance with any and all rules, regulations and ordinances of the City of Salem.
  - ix. All construction vehicles left overnight at the site, must be located completely on the site.
  - x. Should contaminated materials be encountered onsite, all construction shall take place under the direction and supervision of a Licensed Site Professional in compliance with the rules and regulations of the Massachusetts Department of Environmental Protection.
  - xi. The applicant shall promptly notify the Board of Health of any environmental condition encountered during construction that may adversely impact the abutters to the site.
  - xii. There shall be no construction vehicle access from Greenlawn Avenue or Verona Street.

#### **16. As-built Engineering Plans**

- a. As-built Plans, stamped by a Registered Professional Engineer, shall be reviewed and approved by the Clerk of the Works, then submitted to the Department of Planning and Community Development and Department of Public Services prior to the issuance of the Certificate of Occupancy.
- b. The As-Built plans shall be submitted to the City Engineer in an electronic file format suitable for the City's use and approved by the City Engineer, prior to the issuance of the Certificate of Occupancy.
- c. A completed tie card, a blank copy (available at the Engineering Department) and a certification signed and stamped by the design engineer, stating that the work was completed in substantial compliance with the design drawing must be submitted to the City Engineer prior to the issuance of the Certificate of Occupancy; as well as, any subsequent requirements by the City Engineer.

#### **17. Violations**

- a. Violations of any condition contained herein shall result in revocation of this permit by the Planning Board unless the violation of such condition is waived by a majority vote of the Planning Board.



**18. Lapse**

- a. The site plan review and special permit approval shall lapse after two years from the grant thereof if actual construction thereof has not sooner commenced except for good cause as approved by the Planning Board. Such approval may, for good cause, may be extended in writing by the Planning Board upon the written request of the applicant.

**Record of Vote**

The following members of the Planning Board voted seven (7) in favor, zero (0) opposed, and one (1) abstained to approve the Site Plan Review and Special Permit application subject to the above-stated terms and conditions: Chair Bill Grisct, Kirt Rieder, Carole Hamilton, Jonathan Berk, Zach Caunter, Josh Turiel, and Tom Furey.

I hereby certify that a copy of this decision and plans has been filed with the City Clerk and copies are on file with the Planning Board. The Site Plan Review and Drive Through Facilities Special Permit shall not take effect until a copy of this decision bearing the certification of the City Clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, and it has been dismissed or denied, is recorded in the Essex South Registry of Deeds and is indexed under the name of the owner of record is recorded on the owner's Certificate of Title. The owner or applicant, his successors or assigns, shall pay the fee for recording or registering.



**Bill Grisct**  
Chair