

Re: 199 Boylston Street Newton (Chestnut Hill) MA
For title referen see Book 18, 272/ Page 269

RECORDING receipt



2013 00052253
Bk: 61351 Pg: 36 Doc: DECIS
Page: 1 of 4 03/07/2013 12:15 PM

Mail to:
William H. Shaevel
Shaevel & Krems, LLP
141 Tremont St. 3rd Fl.
Boston, MA 02111

#307-12

CITY OF NEWTON
IN BOARD OF ALDERMEN

December 17, 2012

RECEIVED
Newton City Clerk
2012 DEC 20 AM 11:49
David A. Olson, CMC
Newton, MA 02459

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to add over a three-year period three restaurants with more than 50 seats; to waive 111 parking spaces; to erect additional signs all in excess of 50 sq. ft. for the restaurants facing Boylston Street and a fourth sign over the entrance of the Mall; to add 1,731sq. ft. of outside restaurant patio seating; and to make physical improvements to the Boylston Street façade and the Boylston Street parking lot as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

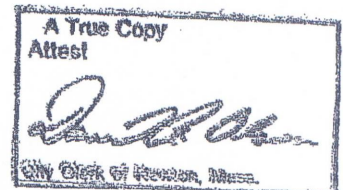
1. Additional restaurant uses with greater than 50 seats are appropriate in this location and will not adversely affect the neighborhood.
2. Literal compliance with the parking provisions of the Newton Zoning Ordinance is impracticable, and the proposed parking waiver is in the public interest.
3. The proposed signs are in the public interest as the building is set back from Boylston St and proposed signs will enhance visibility on this commercial corridor.
4. The petitioner submitted a parking study which appears to show that there is sufficient parking to meet the parking demand for the proposed new restaurant uses even during peak parking demand hours.
5. The project will add vitality to the Boylston Street/Route 9 corridor and is consistent with the Comprehensive Plan.

PETITION NUMBER: #307-12

PETITIONER: WMACH, Inc.

LOCATION: 199 Boylston St, Ward 7, on land known as Section 65, Block 80, Lot 1, containing approximately 324,691 sq. ft. of land

OWNER: WMACH, Inc.



hcr

ADDRESS OF OWNER: c/o Simon Properties, William Jackson,
225 Washington St, Indianapolis, IN 46204

TO BE USED FOR: Additional restaurants within the Chestnut Hill Mall

CONSTRUCTION: Interior fit-out only; Signage

EXPLANATORY NOTES: Section 30-11(d)(9), to permit restaurants over 50 seats; Section 30-19(c), 30-19(d)(10) and (d)(13), and 30-19(m), to waive up to 111 parking stalls; and Section 30-20(f)(2) and Section 30-20(i), to approve the proposed sign package, including secondary signs larger than 50 square feet.

ZONING: Business 1 District

Approved subject to the following conditions:

1. All exterior buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located, constructed and materially consistent with:

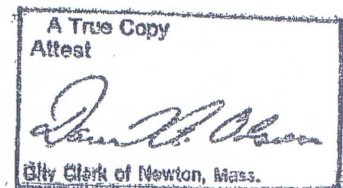
Plan Set prepared by RJO'Connell, Stoneham, MA, all stamped and signed by John Stoy, Registered Professional Engineer, dated 8/9/12 and last revised 11/27/12 including:

- OSP-1, Overall Site Plan
- C-1, Demolition and Erosion Control Plan
- C-2, Grading and Drainage Plan
- C-3, Utility Plan
- C-4, Parking and traffic Control Plan
- C-9, Sidewalk Enlargement Plan
- L-1, Landscape Plan

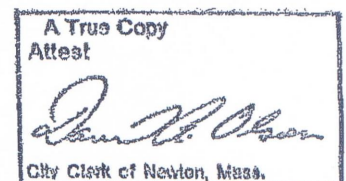
Architectural Plan Set prepared by McMahon Architects Inc, Boston, MA, not stamped or signed, last revised on 11/30/12 including:

- A0.01, Façade Renovation – Exterior View & Enlarged Plan
- A0.02, Façade Renovation – Section Detail
- A0.03, Façade Renovation – Exterior Elevation

2. The 111-stall parking waiver shall be applicable to the restaurant uses only within the interior portion of the mall (between the anchor stores on the east and west end).



3. Mall management has agreed to implement a Transportation Demand Management Plan and will provide on-site circulation and parking management assistance during the peak holiday shopping season as necessary and agrees to contribute towards a shuttle service, subject to condition 7. The Mall has added a drop off area/fire lane to both the north and south sides of the Mall. Mall management will encourage tenants to subsidize the cost of public transportation for employees, and designate convenient parking for carpools, vanpools and alternative fuel vehicles. Bicycle parking and storage is provided on site and the existing sidewalk along the Mall's driveway will serve pedestrians crossing Route 9 between the Mall at Chestnut Hill and Chestnut Hill Square at the new signalized intersection.
4. Any dumpsters shall be kept closed and the area free of debris.
5. The petitioner shall annually clean and inspect all restaurant grease traps.
6. The petitioner agrees to turn off lighted signs one-half hour after closing.
7. The petitioner will work with the Planning Department on increasing the visibility of a safe pedestrian route from the south parking lot to the main entrance to the interior mall.
8. The petitioner shall make an equitable contribution to an area shuttle service between the Mall and other major developments along Boylston Street and the Newton Centre MBTA Green Line Station (or an alternative multi-modal hub). The shuttle service shall run throughout the week and weekend for hours to be determined at a later date.
9. It is contemplated that it will take 3 years to add all three restaurants
 - a. This Special Permit/Site Plan Approval shall be deemed to have been vested and exercised with respect to the entire project, for all purposes, if any portion of the project, including, but not limited to, relocation of the transformer, draws a building permit and begins construction on that permit.
 - b. Construction of any portion of the Project will not obligate the Petitioner to construct the balance of the Project (or any portion thereof) as shown in the Special Permit Plan Set.
10. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. Recorded a certified copy of this board order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

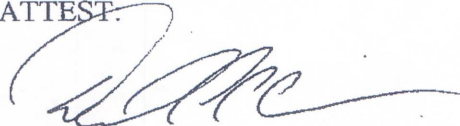


11. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
- a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, the City Engineer and the Department of Planning and Development a final as-built survey plan in paper and digital format for any portion of the Project.
 - c. As construction of any portion of the Project does not obligate the Petitioner to construct the balance of the Project in the Special Permit Plan Set (or any portion thereof) a Certificate of Occupancy may be issued for any portion of the Project prior to completion of the entire Project as shown in the Special Permit Plan Set.

Under Suspension of Rules
Readings Waived and Approved
22 yeas 0 nays 2 absent (Aldermen Kalis and Merrill)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on December 20, 2012. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

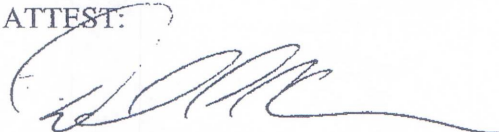
ATTEST:



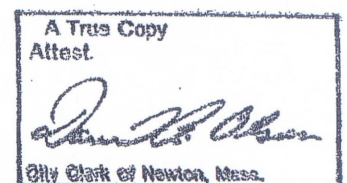
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 12/30 and that NO APPEAL to said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen



2013 00185530
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Page: 1 of 4 08/23/2013 10:42 AM

#307-12(2)

CITY OF NEWTON
IN BOARD OF ALDERMEN

June 17, 2013

RECEIVED
Newton Office
2013 JUN 19 AM 11:32
DAVID A. OLSON, Clerk
Newton, MA 02459

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to AMEND SPECIAL PERMIT #307-12, granted on 12/20/12, which permitted three restaurants over 50 seats, waived up to 111 parking stalls, and permitted a sign package which includes secondary signs larger than 50 square feet, in order to construct a 131-square foot enclosed vestibule within the previously permitted 1,118 square foot patio area, and to erect two additional secondary signs, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. The proposed addition to the nonconforming structure will not be substantially more detrimental to the neighborhood than the existing building.
2. The proposed signs are in the public interest and are appropriate for way-finding at the site.

PETITION NUMBER: #307-12(2)

PETITIONER: WMACH, Inc. (Owner)/The Cheesecake Factory, Inc. (Tenant)


LOCATION: 199 Boylston St, Ward 7, on land known as Section 65, Block 80, Lot 1, containing approximately 324,691 sq. ft. of land

OWNER: WMACH, Inc.

ADDRESS OF OWNER: c/o Simon Properties, William G. Jackson, Esq.
225 West Washington St, Indianapolis, IN 46204

TO BE USED FOR: Restaurant

CONSTRUCTION: 131-square foot enclosed entry vestibule; secondary signage

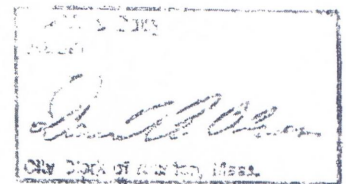
A True Copy
Attest

City Clerk of Newton, Mass.

EXPLANATORY NOTES: Section 30-11(k) & §30-21(b) to permit the extension of a nonconforming structure; and Section 30-20(f)(2) & §30-20(1), to approve proposed additional signage, including secondary signs in excess of allowable number and size

ZONING: Business 1 District

Approved subject to the following conditions:

1. All exterior buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located, constructed and materially consistent with Plan Set prepared by RJO'Connell, Stoneham, including:
 - a. Cover sheet
 - b. Overall site plan, stamped by John Stoy, Civil Engineer, dated 6/4/13
 - c. Demolition and erosion control plan, stamped by John Stoy, Civil Engineer, dated 4/2/13
 - d. Grading and Drainage Plan, stamped by John Stoy, Civil Engineer, dated 6/4/13
 - e. Utility plan, stamped by John Stoy, Civil Engineer, dated 4/2/13
 - f. Parking and Traffic Control Plan, stamped by John Stoy, Civil Engineer, dated 6/4/13
 - g. Sidewalk Enlargement Plan, stamped by John Stoy, Civil Engineer, dated 6/4/13
 - h. Preliminary Elevations (south and east)/Partial floor plan, dated 3/29/13
 - i. Preliminary Floor Plan, dated 3/29/13
 - j. Enlarged vestibule plan, dated 3/29/13
 - k. Exterior front and side sign elevations, dated 3/29/13
 - l. Sign specs, created by Federal Heath signed company, dated 3/27/13 and 3/29/13
2. In accordance with Board Order #307-12, Mall management has agreed to implement a Transportation Demand Management Plan and will provide on-site circulation and parking management assistance during the peak holiday shopping season as necessary and agrees to contribute towards a shuttle service, subject to condition 6. The Mall has added a drop off area/fire lane to both the north and south sides of the Mall. Mall management will encourage tenants to subsidize the cost of public transportation for employees, and designate convenient parking for carpools, vanpools and alternative fuel vehicles. Bicycle parking and storage is provided on site and the existing sidewalk along the Mall's driveway will serve pedestrians crossing Route 9 between the Mall at Chestnut Hill and Chestnut Hill Square at the new signalized intersection.
3. Any dumpsters shall be kept closed and the area free of debris.
4. The petitioner shall annually clean and inspect all restaurant grease traps.
5. The petitioner agrees to turn off lighted signs one-half hour after closing.



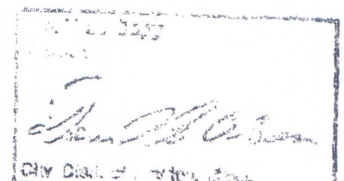
6. The petitioner shall make an equitable contribution to an area shuttle service between the Mall and other major developments along Boylston Street and the Newton Centre MBTA Green Line Station (or an alternative multi-modal hub). The shuttle service shall run throughout the week and weekend for hours to be determined at a later date.
7. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. Recorded a certified copy of this board order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
8. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, the City Engineer and the Department of Planning and Development a final as-built survey plan in paper and digital format for any portion of the Project.
 - c. As construction of any portion of the Project does not obligate the Petitioner to construct the balance of the Project in the Special Permit Plan Set (or any portion thereof) a Certificate of Occupancy may be issued for any portion of the Project prior to completion of the entire Project as shown in the Special Permit Plan Set.

Under Suspension of Rules

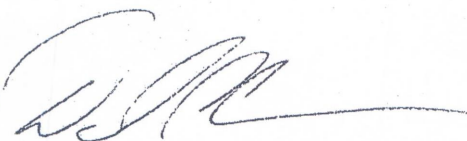
Readings Waived and Approved

22 yeas 0 nays 1 absent (Alderman Lappin) 1 vacancy

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on June 19, 2013. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.



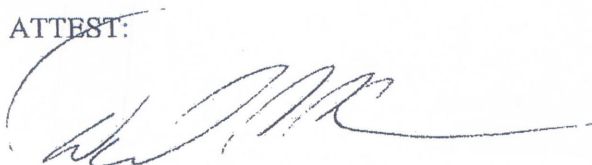
ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 6/19 and that NO APPEAL to said decision pursuant to G.L. c. 40A, §17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen