



Setti D. Warren
Mayor

CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Telephone
(617)-796-1120

TDD/TTY
(617) 796-1089

Fax
(617) 796-1142

PUBLIC HEARING MEMORANDUM

Public Hearing Date: June 11, 2013
 Land Use Action Date: July 16, 2013
 Board of Aldermen Action Date: August 5, 2013
 90-Day Expiration Date: September 9, 2013

DATE: June 7, 2013

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
 Alexandra Ananth, Chief Planner for Current Planning

SUBJECT: Petition **#307-12(2)**, WMACH, Inc./The Cheesecake Factory, Inc., petition 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 at **199 Boylston Street**, Ward 7, in a district zoned Business 1. Ref: Sec. 30-24, 30-23, 30-11(k), 30-20(f)(2), 30-20(l), 30-21(b) of the City of Newton Rev Zoning Ord, 2012.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



The Mall at Chestnut Hill

EXECUTIVE SUMMARY

The petitioner, the Mall at Chestnut Hill (the Mall) has secured The Cheesecake Factory as a tenant for one of the approved restaurant uses at the Mall. The Cheesecake Factory will occupy what was previously represented as spec restaurant space at the far right of the interior Mall when viewed from Boylston Street/Route 9. The petitioner is now seeking a special permit to add a 131-square foot entry vestibule to this portion of the building. The petitioner is also requesting two secondary signs for this restaurant.

Special Permit #307-12 is the most recent special permit approved at the Mall. This permit approved up to three new restaurant uses with more than 50 seats, a parking waiver for up to 111 parking stalls, a façade update, outdoor patio dining space, and a sign package including secondary signs larger than 50 square feet.

The proposed new vestibule will not significantly impact the overall site, but the proposed new tenant may impact parking at the Mall. The Planning Department recommends the petitioner add at least one handicap stall in front of the restaurant and consider making a portion of the parking island in front of the restaurant available for short-term take-out parking only, during certain hours of the day. Additionally, the Planning Department recommends the petitioner work with the developers of Chestnut Hill Square, who will provide a shuttle bus that will connect their property to an MBTA Green Line station, to expand shuttle service to include the Mall.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Board should consider whether the following findings apply:

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

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located in the commercial area of Chestnut Hill along Boylston Street/Route 9. There are several shopping centers and large apartment buildings in the neighborhood. In addition, there are several single-family homes adjacent to the Mall on Moody Street, many of which are owned by the owners of the Mall. The Hammond Pond Reservation forms the northern boundary of the commercial areas (**ATTACHMENTS A AND B**). The site is zoned Business 1.

B. Site

The Mall was constructed in 1972 on three separate parcels of land that function together as a single integrated indoor shopping center and associated parking for the site. The Mall is anchored on both ends by Bloomingdales and the land that Bloomingdales is located on is owned by the store. The remainder (or “middle”) of the Mall is occupied by smaller stores and restaurants and is in separate ownership. The proposed changes will be made to this middle section. The Mall as a whole currently has 2,121 parking spaces, including surface parking located around the site, and a multi-level garage located on the north side of the Mall on a separately owned parcel.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The use of the site and tenant space is not changing in any way.

B. Building and Site Design

The petitioner is proposing to add a 131-square foot enclosed entry vestibule within the previously permitted patio area for this restaurant space. The entry vestibule will help with energy conservation and the protection of restaurant patrons from the weather. The entry vestibule is in keeping with vestibules at other Cheesecake Factory locations and is part of their brand identity.

C. Traffic, Parking and Circulation

The petitioner is not proposing any changes to parking or circulation at the Mall. However, staff is concerned with the lack of short-term, “take-out only” parking stalls that are often found outside of busy restaurants, including other Cheesecake Factory locations (e.g. Natick). Staff recommend the closest parking island include one handicapped stall and that a portion of this parking area be reserved for customers picking-up only (during some portions of the day) so as to discourage patrons from double parking in the Fire Lane. We also recommend the Mall use high quality reflective thermo-plastic paint to stripe a pedestrian crossing from this island to the restaurant in order to visually signal drivers of frequent pedestrians. Finally, a handicap ramp should be placed in front of the restaurant.

The Planning Department has consistently advocated for a shuttle bus route servicing the larger developments along Boylston Street/Route 9, and linking them with the Newton Center MBTA Green Line Station. Newton Center is a multi-modal center with bus and train service from various locations in the Boston area. A shuttle service will help employees as well as area residents, diners and shoppers access the Route 9 corridor. Should the Board choose to approve this

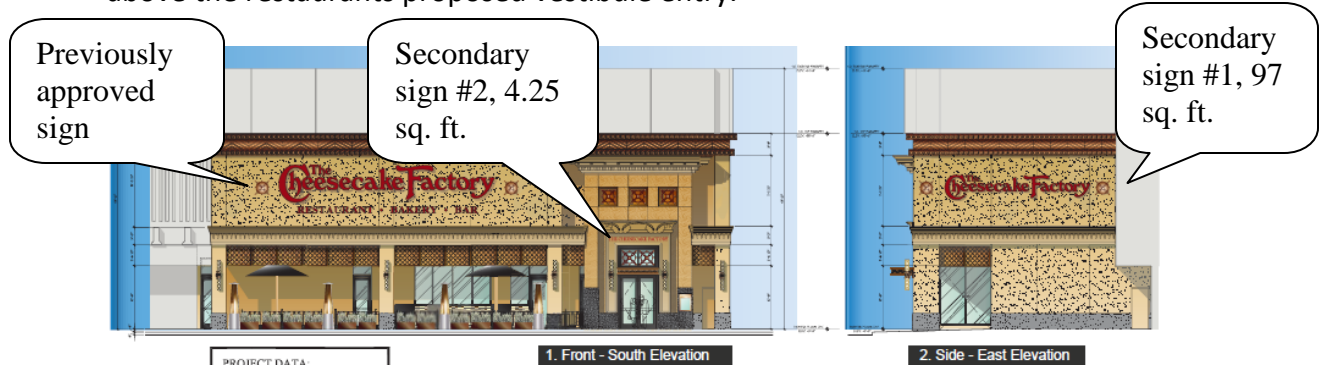
petition, the Planning Department recommends the Board consider a condition requiring the petitioner to contribute on an annual basis to a shuttle service should the shuttle bus service from Chestnut Hill Square be extended to include additional stops.

D. Landscape Screening and Lighting

No changes to landscaping or lighting are proposed as a result of this petition.

E. Signage

The petitioner is requesting two secondary signs for this tenant. This is in addition to the 300 sq. ft. sign previously permitted under special permit #307-12 for this tenant space. One of the proposed secondary signs is 97 square feet and will be located on the east corner façade of the interior mall facing Hammond Pond Parkway. The other proposed sign is 4.25 square feet and is located immediately above the restaurants proposed vestibule entry.



The Urban Design Commission reviewed the proposed signs at their April meeting earlier this year and recommends approval. The Planning Department has no concerns with proposed signage.

IV. TECHNICAL REVIEW

- A. Technical Considerations (Section 30 Newton Zoning Ordinances). The Zoning Review Memorandum, (**ATTACHMENT C**), provides an analysis of the proposal with regard to zoning. A special permit is required to permit the extension of a nonconforming structure, and to approve two additional secondary signs including one larger than 50 square feet.

V. ZONING RELIEFS SOUGHT

Based on the completed zoning review, the petitioner is seeking approval through or relief from:

- Section 30-11(k) and 30-21(b), to permit the extension of a nonconforming

structure.

- Section 30-20(f)(2) and Section 30-20(l), to approve two additional secondary signs, including one larger than 50 square feet.

VI. Summary of Petitioner's Responsibilities

Prior to the Working Session the petitioner should be expected to submit:

- A revised site plan showing the addition of one handicap parking stall close to the entrance to the restaurant, as well as a safe pedestrian crossing and handicap ramp in front of the proposed new vestibule.
- The petitioner should consider creating short-term "pick-up only" parking close to the entrance of the restaurant in order to discourage patrons from parking in the Fire Lane.
- The petitioner should consider cooperating with Chestnut Hill Square to extend their shuttle service to include the Mall.

ATTACHMENT A: Zoning Map

ATTACHMENT B: Land Use Map

ATTACHMENT C: Zoning Review Memorandum

307-12(2)
199 Boylston St.
Zoning

*City of Newton,
Massachusetts*

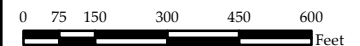
Legend

- Single Residence 3
- Multi-Residence 1
- Multi-Residence 3
- Multi-Residence 4
- Business 1
- Business 4
- Public Use

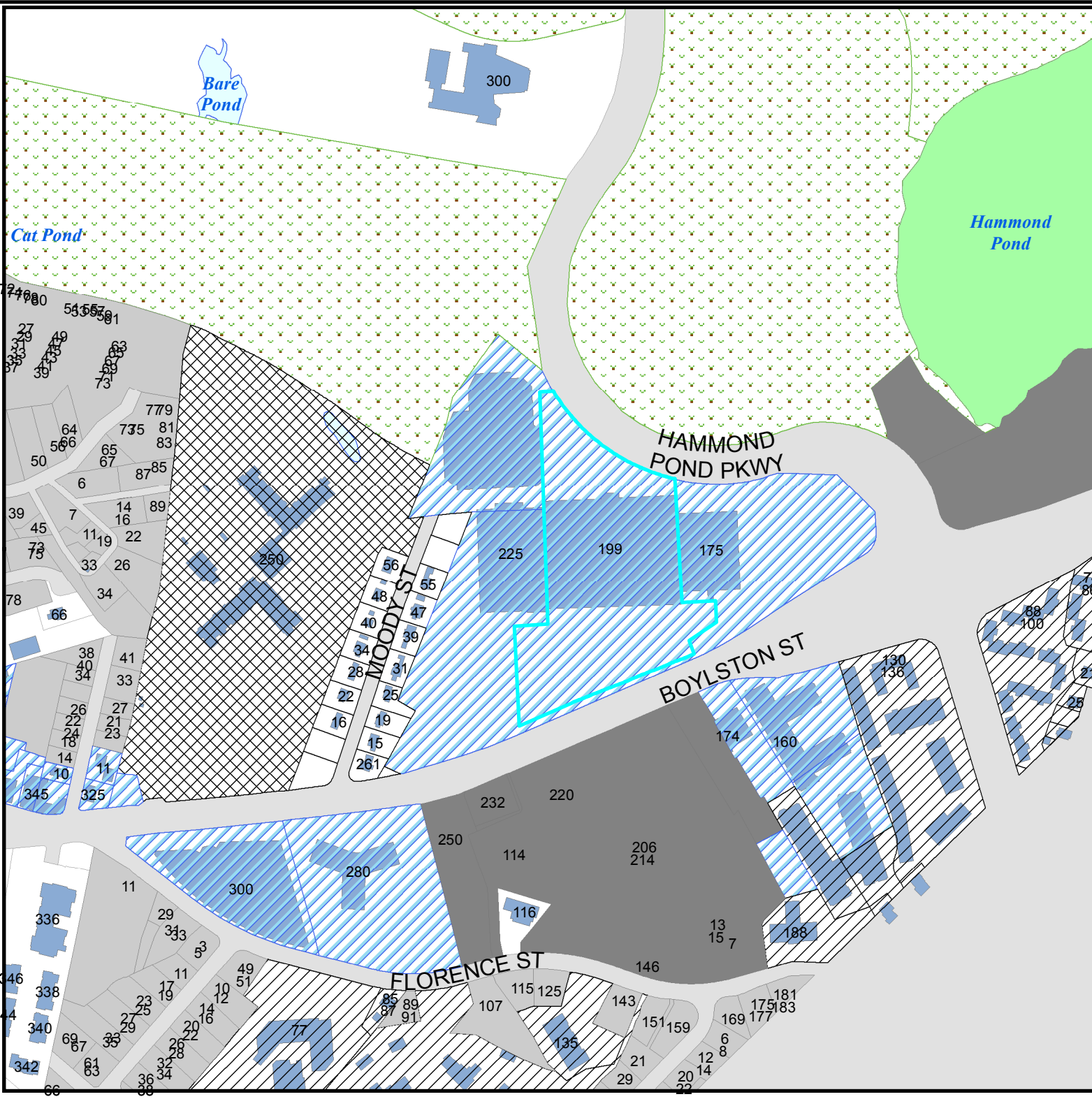


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield








Attachment A



307-12(2)
199 Boylston St.
Land Use
City of Newton,
Massachusetts

Legend

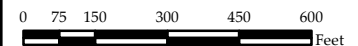
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Open Space
-  Nonprofit Organizations

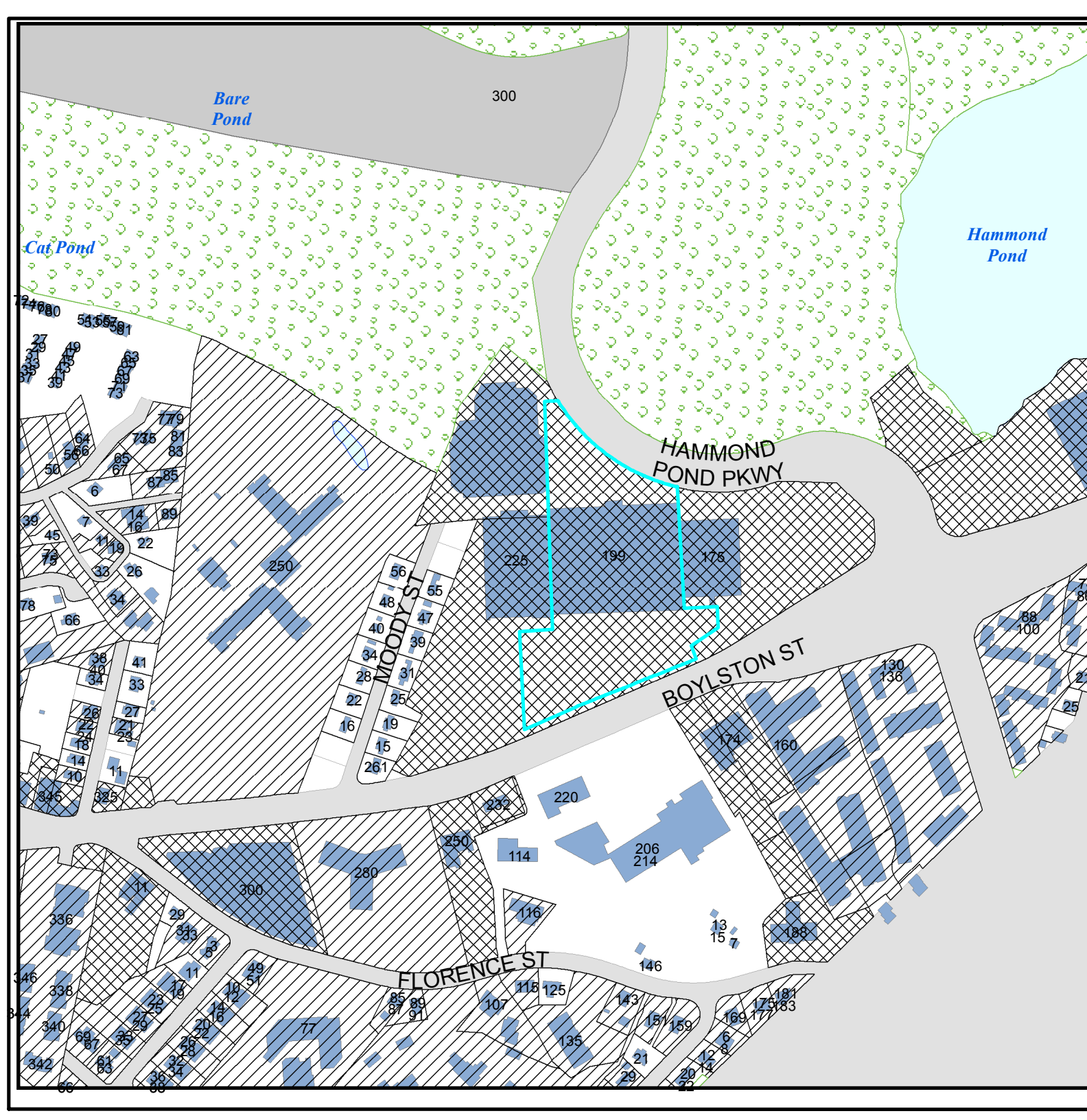


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
 Mayor - Setti D. Warren
 GIS Administrator - Douglas Greenfield



Attachment B





Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

307-12(2)
Attachment C

(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: April 17, 2013

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: William H. Shaevel, Attorney representing applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to amend the existing special permit/site plan review to allow an extension of a nonconforming structure and two additional secondary signs.

Applicant: WMACH, LLC	
Site: 199 Boylston Street	SBL: 65008 0100
Zoning: BU1	Lot Area: 324,691 square feet
Current use: Shopping center	Proposed use: Shopping center

BACKGROUND:

The property at 199 Boylston Street consists of a 324,691 square foot lot used in conjunction with land at 175 Boylston Street (SBL 65008 0099), 225 Boylston Street (SBL 65008 0099B) and 175R Boylston Street (SBL 65008 0099A) for the Mall at Chestnut Hill (the Mall), an enclosed shopping mall. A portion of the property at SBL 65008 0004 is also used as surface parking through a long-term agreement with the Massachusetts Department of Conservation and Recreation (DCR). The property at 175 Boylston Street (including both end tenants of the Mall and substantial portions of the surface parking) is owned and operated by Bloomingdales, Inc. The property at 175R Boylston Street contains a parking structure and is owned and operated jointly by Bloomingdales and WMACH, LLC. The property lines between 175 and 199 Boylston Street run through the Mall building but the site functions as a single integrated shopping center and is considered as one for the purposes of zoning. The Mall was constructed as of right in 1972 and the above division of the land into three lots dates from 1971. The site has been the subject of several permits addressing signs and parking, the latest one was approved in 2012 (BO # 307-12), allowing three new restaurants within the existing footprint of the building.

The applicant has secured The Cheesecake Factory as a restaurant tenant for one of the approved restaurant uses. The Cheesecake Factory will occupy what was previously represented as the spec restaurant at the far right of the interior mall. The applicant now proposes to add a 131-square foot entry vestibule to this portion of the building. The applicant is also requesting two secondary signs for this restaurant.

The Special Permit (#307-12) originally approved three secondary signs at the site, in excess of 50 square feet. The Cheesecake Factory will have such a sign, and requests two additional secondary signs. One of the proposed signs will be immediately above The Cheesecake Factory entrance, totaling 4.25-square feet. The second proposed sign will be around the corner on the façade facing Hammond Pond Parkway and will measure 97-square feet.

The following review is based on plans and materials submitted to date as noted below.

- Letter dated April 3, 2013
- Zoning Review Application
- Board Order for Special Permit #307-12
- Zoning Review Memorandum, prepared by Seth Zeren, dated 10/4/12
- Plans for modification to Special Permit #307-12
 - Cover sheet
 - Demolition and erosion control plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Grading and drainage plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Utility plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Parking and traffic control, stamped by John Stoy, civil engineer, dated 4/1/13
 - Sidewalk enlargement plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Overall site plan, stamped by John Stoy, civil engineer, dated 4/1/13
 - Preliminary Elevations (south and east)/Partial floor plan, dated 3/29/13
 - Preliminary Floor Plan, dated 3/29/13
 - Enlarged vestibule plan, dated 3/29/13
 - Exterior front and side sign elevations, dated 3/29/13
 - Sign specs, created by Federal Heath signed company, dated 3/27/13

ADMINISTRATIVE DETERMINATIONS:

1. The site received Special Permit # 307-12, dated 12/17/12 allowing 1) over a three-year period the addition of three restaurants with more than 50 seats to be phased in over a three year period; 2)Waiver of 111 parking spaces; 3) Three additional signs in excess of 50 square feet for the restaurants facing Boylston Street and a fourth sign over the Mall entrance; 4) the addition of 1,731 square feet of outdoor restaurant patio seating; and 5) physical improvements to the Boylston Street façade and the Boylston Street parking lot.
2. The Cheesecake Factory has indicated that there will be a maximum of 40 employees on the largest shift and 257 seats total (including patio seating). Both numbers are below the projections of seats and employees previously approved (350 seats/45 employees).

3. The proposed vestibule for The Cheesecake Factory sits on the permitted patio area. It will add 131 square feet to the interior space of the restaurant. It will not add restaurant seats or require additional employees.
4. The Board approved three secondary signs at the site, each in excess of 50 square feet, per Special Permit #307-12. The Cheesecake Factory will use one of these previously approved signs for a 300-square foot secondary sign. The applicant proposes two additional secondary signs requiring an amendment to the previously approved Special Permit. The 4.25-square foot sign over the vestibule qualifies as a second secondary sign on the Route 9 frontage. Section 30-29(f)(2) allows only one secondary sign per frontage. Therefore, the applicant must obtain a special permit from the Board of Aldermen per Section 30-20(l) to permit the proposed sign.
5. The façade of the interior sections of the Mall are offset from the two ends (both ends are occupied by Bloomingdale's). The proposed new 97-square foot secondary sign will be located on the corner facing Hammond Pond Parkway. While this secondary sign is along a second frontage, it is proposed to be larger than the size allowed by right in Section 30-20(f)(2) (up to a maximum of 50 square feet). To locate the sign as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-20(l).
6. Finally since previous special permits, most recently one approved in 2012, control the property, the site plan referenced in the 2012 special permit must be amended to reflect the new signs and elevations.

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Site</i>	<i>Action Required</i>
§30-11(k); §30-21(b)	Permit the extension of a nonconforming structure	S.P. per §30-24
§30-20(f)(2); §30-20(l)	Approve the proposed sign package, including secondary signs in excess of allowable number and size	S.P. per §30-24