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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: December 2, 2014

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Karen Masterson, Applicant
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: **Request to waive three parking stalls and to extend a nonconforming restaurant use**

Applicant: Johnny's Luncheonette	
Site: 30 Langley Road	SBL: 61033 0014
Zoning: BU1	Lot Area: 18,994 square feet
Current use: Restaurant with 88 seats	Proposed use: Restaurant with 96 seats

BACKGROUND:

The property at 30 Langley Road consists of an 18,994 square foot lot improved with several businesses, including Johnny's Luncheonette. There has been a restaurant use on site since the 1930's. The applicant bought the property in 2013. The previous owner was operating with 96 seats, which the current owner maintained without realizing it was over the allowed limit of 88 seats per the occupancy permit on file with Inspectional Services. The applicant requests a special permit to waive the requirement of the three parking stalls associated with the eight extra seats.

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

- Zoning Review Application, prepared by Karen Masterson, dated 11/12/2014
- Seating Plan

ADMINISTRATIVE DETERMINATIONS:

1. The restaurant has a current capacity of 88 seats per its occupancy permit on file with the Inspectional Services Department, which has been in place since the prior restaurant owner. The applicant bought the property with 96 seats in use, and wishes to legitimize the current number. There are 40 parking stalls behind the building for the common use of all of the tenants within the building. The applicant's capacity of 88 seats is legally nonconforming, as it has been so since the 1930's when the restaurant use began. To expand to 96 seats requires a special permit to waive the three stalls necessary to add eight seats, per Section 30-19(d)(13).
2. The restaurant use on site pre-dates the 1987 amendment to the Ordinance requiring a special permit for a restaurant with more than 50 seats. The existing 88 seats are already nonconforming, as they exceed the 50 seats per Section 30-11(d)(9). To add 8 more seats for a total of 96 requires a special permit per Section 30-21(b) to further increase the nonconforming number of seats, and to operate a restaurant with more than 50 seats.
3. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§30-19(d)(13), §30-19(c)(2)a	Parking waiver for 3 parking stalls	S.P. per §30-24
§30-11(d)(9), §30-21(b)	To extend a nonconforming restaurant with more than 50 seats	S.P. per §30-24