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#58-21

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Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: March 9, 2021
Land Use Action Date: May 18, 2021
City Council Action Date: June 7, 2021
90-Day Expiration Date: June 7, 2021

DATE: March 5, 2021

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #58-21** for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a restaurant with more than 50 seats and a parking waiver for one stall and to amend Special Permit Board Order #242-09 at **1241 Centre Street (1239-1243)**, Ward 6, Newton Centre, on land known as Section 64 Block 28 Lot 24, containing approximately 9,000 sq. ft. in a district zoned BUSINESS USE 1. Ref: Sec. 7.3.3, 7.4, 5.1.4, 5.1.13 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



1241 Centre Street (1239-1243)

EXECUTIVE SUMMARY

The property at 1241 Centre Street consists of a 9,000 square foot lot in a Business 1 (BU1) zoning district improved with an approximately 11,599 square foot multi-tenant commercial building constructed in 1920. The petitioner is seeking to occupy approximately 3,825 square feet of space within the building with a new restaurant, replacing a different restaurant that previously operated at this location.

The previous restaurant was established pursuant to Special Permit #242-09 that allowed the expansion of the nonconforming structure, permitted the restaurant to have more than fifty seats (80 interior seats plus 25 seasonally-used patio seats) and granted a parking waiver of 14 stalls from November through April, and 23 stalls from May through October (the latter to accommodate seasonal outdoor seating).

The petitioner is presently requesting to amend Condition #2 of the existing special permit to increase the number of restaurant employees allowed on the largest shift from nine to 12.

Since per section 5.1.4 of the Newton Zoning Ordinance (NZO) a restaurant requires one stall per every three employees at the largest shift, the proposed increase of three employees would require the waiver of an additional parking stall, increasing the total number of waived parking spaces to 15 from November through April, and 24 stalls from May through October.

The petitioner is also seeking to eliminate Condition #7 of Special Permit #242-09 that limits cooking on site to baking and the “use of Panini presses, egg steamers and similar items” while explicitly excluding the installation or use of “grilling or frying equipment” to allow expanded cooking equipment and methods.

The Planning Department is generally not concerned with the requested increase in employees onsite from nine to 12 and the associated waiver of a single additional parking space. The Department does recommend that the petitioner provide information related to the methods by which any impact associated with the proposed lifting of the special permit-imposed prohibition of the use of grilling and frying equipment would be mitigated.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site in a Business 1 (BU1) district is an appropriate location for a restaurant with 12 employees and grilling and frying equipment (§7.3.3.C.1)
- The proposed restaurant with 12 employees and grilling and frying equipment will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed restaurant with 12 employees and grilling and frying equipment will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)
- Literal compliance with the parking requirements per Sec. 5.1 that require an additional parking stall for the proposed additional three employees is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features. (§5.1.13)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the west side of Centre Street between Pelham and Beacon streets.

The site is developed with a commercial structure similar to those located throughout the surrounding Newton Centre commercial area; public parkland is located across Centre Street to the east and the area to the west is largely occupied by single- and multi- family dwellings, as well as religious uses and a municipal parking area directly to the rear of the subject property (**Attachment A**). The site and other properties along the west side of Centre Street are zoned Business 1 (BU1) as are those to the east beyond Public Use (PU) zoned properties along the east side of the street; the public parking to the rear is zoned PU; and the area west of Centre Street is largely zoned Single Residence 2 (SR2) **Attachment B**).

B. Site

The property consists of a 9,000 square foot lot improved with an approximately 11,599 square foot multi-tenant commercial building. The structure occupies most of the parcel, with the exception being seasonal outdoor seating space at the rear of the lot (abutting the public parking lot).

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the approximately 3,825 square foot portion of the building that is the subject of the present petition would continue to be used as a restaurant. The number of employees permitted to be on site at one time would be increased from nine to twelve, and some previously impermissible cooking equipment, i.e., that used to grill and/or fry foods, would be allowed.

The Planning Department recognizes that the ban on grilling and frying was likely a reflection of concerns related to the possible emission odors often associated with such cooking methods and equipment. As such concerns can likely be addressed with appropriate ventilation and filtering equipment, the petitioner should be prepared to indicate in detail, in advance of and/or at the public hearing, what equipment it intends to deploy and to what extent concerns related to the currently prohibited cooking methods would be ameliorated.

B. Building and Site Design

No changes to the exterior of the building, or to the site, are contemplated by the present petition.

That said, it can be expected that the exterior of the to-be-leased area would be modified to

correspond to the petitioner's branding requirements. Similarly, signage would be expected to change as well. The Planning Department notes that the existing special permit indicates that any changes to the previously approved signage shall be reviewed by the Urban Design commission and the Director of Planning and Development.

C. Parking and Circulation

The existing special permit requires that six on-site parking stalls available for use by employees and two on-site parking stalls available for short-term parking for the retail customers (these spaces are located on an adjacent parcel also owned by the owner of the parcel). No changes to this arrangement have been proposed.

Regarding the proposed waiver of a single additional parking stall (raising the total waiver to spaces to 15 from November through April, and 24 stalls from May through October), while recognizing the demand for parking in Newton Centre the Planning Department is generally not concerned given the location and availability of public parking, both on-street and in public parking areas, including the lot abutting the property to the rear.

D. Landscaping and Lighting

No changes to the site's landscaping or lighting are contemplated by the present petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Amend Special Permit #242-09
- Special Permit per §7.3.3 to waive 1 parking stall (§5.1.4, §5.1.13)

B. Engineering Review

Review by the Engineering Division is not required.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Land Use Map
Attachment B: Zoning Map
Attachment C: Zoning Review Memorandum

ATTACHMENT A

Land Use

1241 Centre St.

City of Newton,
Massachusetts

Land Use

Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Private Educational
-  Nonprofit Organizations

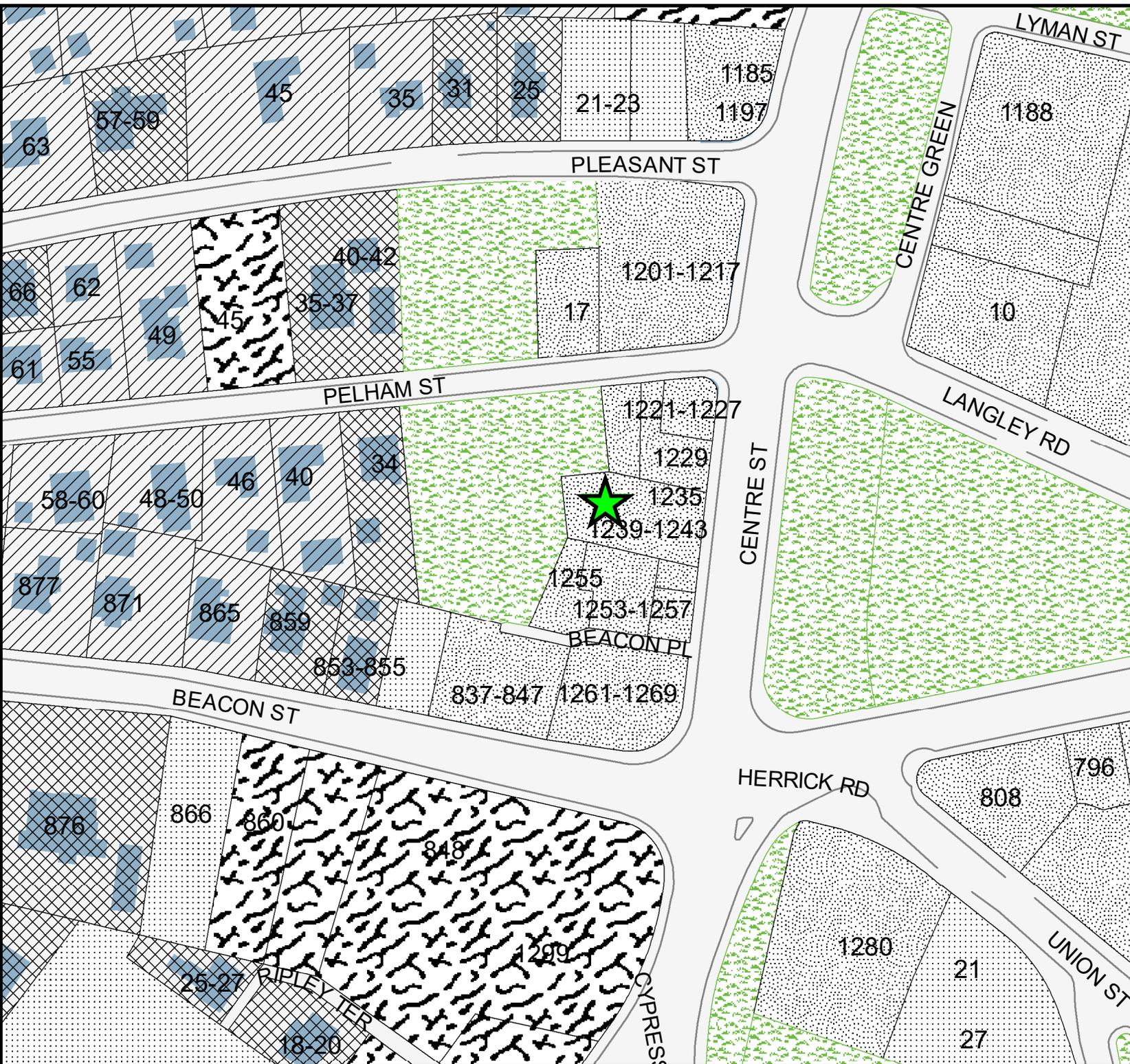


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.525 50 75 100 125 150 175
Feet

Map Date: February 19, 2021



Zoning

1241 Centre St.

*City of Newton,
Massachusetts*

Legend

-  Single Residence 2
-  Multi-Residence 1
-  Business 1
-  Public Use

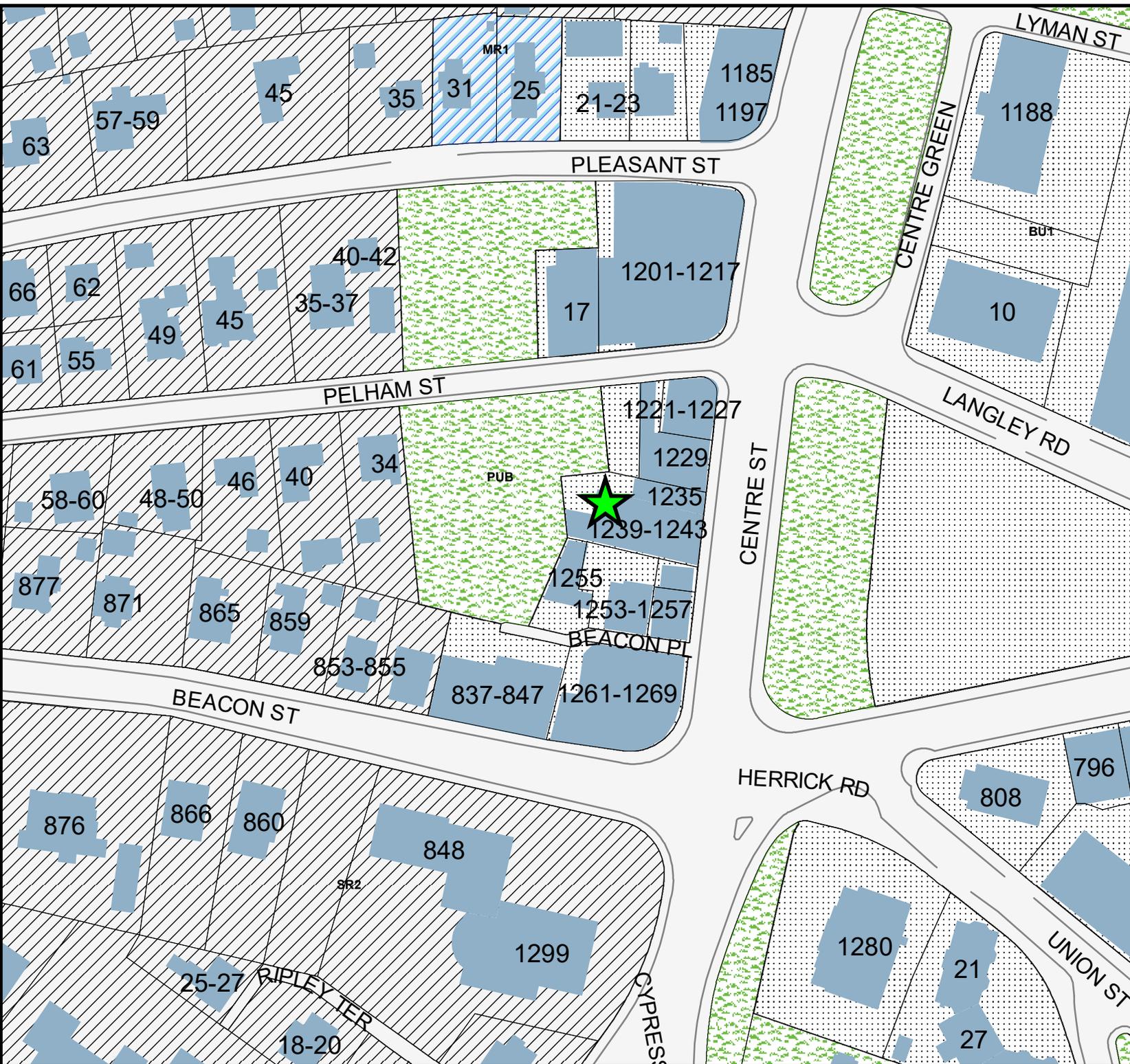


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ATTACHMENT C

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Director

ZONING REVIEW MEMORANDUM

Date: February 4 , 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Stephen J. Buchbinder, Attorney
Joel Kadis, Linear Retail Newton 1 LLC
Brendan Boyle, Tatte Bakery and Café
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to amend Board Order #242-09 and to waive one parking stall

Applicant: Tatte Bakery and Café	
Site: 1241 Centre Street (1239-1243 Centre St)	SBL: 64028 0024
Zoning: BU1	Lot Area: 9,000 square feet
Current use: Restaurant	Proposed use: No change

BACKGROUND:

The property at 1241 Centre Street consists of a 9,000 square foot lot improved with a multi-tenant commercial building constructed in 1920. Special Permit #242-09 was granted in 2009 to allow a waiver of 23 parking stalls, a restaurant with more than fifty seats and to expand a nonconforming structure. A new restaurant is trying to lease the space and is seeking to amend two conditions of the special permit and to waive one additional parking stall.

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

- Zoning Review Application, prepared Stephen J. Buchbinder, attorney, dated 12/29/2020

ADMINISTRATIVE DETERMINATIONS:

1. Condition #7 of Special Permit #242-09 requires that “cooking on the premises shall be limited to baking, which may occur at any hour unless otherwise prohibited by the Ordinance. The use of panini presses, egg steamers and similar items are permitted but no grilling or frying equipment may be installed or utilized.” The petitioner seeks to remove Condition #7 to allow for expanded cooking equipment and methods.
2. Condition #2 of Special Permit #242-09 limits the number of employees on the largest shift to nine, with a parking waiver of 14 stalls from November through April, and a waiver of 23 stalls from May through October to accommodate outdoor seating. Condition #8 requires that there are six on-site parking stalls available for use by employees and two on-site parking stalls available for short-term parking for the retail customers. The petitioner seeks to amend Condition #2 to allow for up to 12 employees at the largest shift.
3. Per section 5.1.4, a restaurant requires one stall per every three employees at the largest shift; in this case increasing the parking requirement by one stall with the three additional employees. An amendment is required to increase the number of employees on the largest shift to 12, and to waive an additional stall resulting in 15 stalls waived from November through April, and 24 stalls waived from May through October.

See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
	Request to amend Special Permit #242-09	
§5.1.4 §5.1.13	Request to waive 1 parking stall	S.P. per §7.3.3