



#102-21

Telephone

(617) 796-1120

Telefax

(617) 796-1142

TDD/TTY

(617) 796-1089

www.newtonma.gov

City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: May 4, 2021
Land Use Action Date: July 27, 2021
City Council Action Date: August 2, 2021
90- Day Expiration Date: August 2, 2021

DATE: April 30, 2021

TO: City Council

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

SUBJECT: **Petition #102-21**, for SPECIAL PERMIT/SITE PLAN APPROVAL to waive five parking stalls and to amend Special Permit Board Orders #18-98 and #18-98(2) to allow an increase in number of restaurant seats at 527 Waltham Street (1293-1297 Washington Street) Ward 3, West Newton, on land known as Section 33 Block 11 Lots 13 and 12, containing approximately 17,867 sq. ft. of land 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 which may be useful in the special permit decision making process of the City Council. 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 City Council will want to consider in its discussion at a subsequent Working Session.



527 Waltham Street
1293-1297 Washington Street

EXECUTIVE SUMMARY

The subject property at 527 Waltham Street/1293-1297 Washington Street consists of a 17,867 square foot lot located in the Business Use 1 (the "BU-1") zone in West Newton. The subject property is improved with a single-story commercial building constructed circa 1910 and an 21-stall surface parking facility on the adjacent parcel to the rear. The petitioner is seeking to amend Prior Special Permits 18-98 and 18-98(2) to remove conditions that restrict the business hours of the restaurant. One of the conditions required the former restaurant to lease five parking stalls nearby, the new restaurant leasing the space is seeking a five-stall parking waiver in lieu of leasing the spaces.

The Planning Department reviewed this petition with the Transportation Division who requested additional data in the utilization of the five parking spaces to determine if they are necessary and information on employee modes of transportation. The petitioner is also proposing Transportation Demand Management measures such as complimentary transit passes and incentives for carpooling.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the City Council should consider whether:

- The specific site is an appropriate location for the proposed waiver of five additional parking stalls. (§7.3.3.C.1.)
- The specific site is an appropriate location for the increase from 32 to 88 seats before 5:30 PM and removal of associated conditions. (§7.3.3.C.1.)
- The proposed waiver of five additional parking stalls will adversely affect the neighborhood. (§7.3.3.C.2.)
- The proposed increase from 32 to 88 seats before 5:30 PM will adversely affect the neighborhood. (§7.3.3.C.2.)
- There will be no nuisance or serious hazard to vehicles or pedestrians due to the proposed waiver of two parking stalls. (§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 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. (§5.1.3.E, §5.1.4 and §5.1.13)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located at the intersection of Waltham and Washington Streets within the BU-1 zone in West Newton. The properties bordering the intersection where Waltham, Washington and Watertown Streets meet are zoned BU-1, with and all have commercial uses (**Attachments A & B**). The adjacent parcels to the west on Washington Street are zoned Public Use with the Courthouse and Police Headquarters on those parcels.

B. Site

The site consists of 12,047 square feet of land improved with a one-story commercial building constructed circa 1910. The site also contains a 5,820 square foot parcel used for parking. The tenant space within the building at 1293-1297 Washington Street was the prior location of Lumiere restaurant.

C. Special Permits #18-98 and #18-98(2)

There are two prior special permits attached to this property, #18-98 and #18-98(2) (**Attachment A**). Special Permits #18-98 allowed the use, number of seats, and a parking waiver of 18 stalls. There were several conditions regulating the operations of the restaurant. In 2010, the prior occupants of the space obtained Special Permit 18-98 (2). Special Permit 18-98 (2) increased the number of seats after 5:30 PM to 88 seats, limited the number of seats before 5:30 to 32 seats and permitted five stalls to be located off site at 492 Waltham Street (Newton Community Center).

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain commercial.

B. Building and Site Design

There are no changes to the site or building proposed.

C. Amendment to Special Permit 18-98(2)

Condition 6 of Special Permit #18-98 (2) limited the number of seats before and after 5:30 PM. The prior restaurant was allowed 32 seats before 5:30 PM and 88 seats after 5:30 PM. The petitioner, a new restaurant, is taking over the space from the former restaurant. The petitioner's restaurant operates as a café and focuses on all-day

operations instead of an emphasis on dinner service, as the prior restaurant operated. The petitioner is seeking to amend the prior special permit to operate with 88 seats for breakfast, lunch, and dinner services.

The petitioner is also seeking to remove Conditions 2-5, which requires the petitioner provide a signed lease agreement for the five stalls (Condition 2), requires that only employees park in the five leased stalls (Condition 3), requires replacement of the five stalls if they are no longer able to lease them (Condition 4), and promoting the stalls via their website and front desk of the restaurant (Condition 5). The petitioner is seeking to amend the prior Special Permit to remove these conditions.

D. Parking and Circulation

The petitioners are seeking a five-stall parking waiver, which is in addition to the 18-stall parking waiver granted by Special Permit 18-98. Condition 3 of Special Permit #18-98 required the occupant to provide the lease agreement showing the leasing of five stalls from the Newton Community Center for employees of the restaurant. The petitioner is seeking to remove this condition and seeks a five-stall parking waiver instead. As the site already has a waiver of 18 parking stalls, if approved, the site will have a waiver of 23 parking stalls. Planning Staff recommends a condition that the parking waiver is only applicable to the restaurant use and any change in use would not carry forth the parking waiver of 23 parking stalls.

Planning Staff reviewed this petition with the Transportation Division regarding the request for the additional parking waiver of five stalls. The Transportation Division requested data on utilization of the five parking stalls leased by the prior restaurant to ensure they were no longer necessary. The Transportation Division also requested additional information regarding employee modes of transportation.

The petitioner submitted a narrative regarding employee transportation modes, and they anticipate a maximum of 15 employees at the busiest shift. They anticipate employees utilizing public transportation and intend to provide employees with complimentary transit passes for commuting. The petitioners stated they will be incentivizing employees with a bonus program to carpool or get dropped off to work. The petitioner stated that they have exclusive access after 5:30 PM to the 21 parking stalls in the rear of the building, with the 21-stall parking facility being open to all tenants during the day.

E. Landscape Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (the “Memorandum”) provides an analysis of the proposal regarding zoning. Based on the Memorandum, the petitioner is seeking the following relief:

- §5.1.4 and §5.1.13 of Section 30, to waive five parking stalls.

B. Engineering Review

This petition does not meet the minimum threshold for review from the Engineering Division of Public Works.

C. Newton Historical Commission

This petition does not meet the minimum criteria for review from the Newton Historical Commission.

V. PETITIONER’S RESPONSIBILITIES

The petitioner should respond to the issues raised in this memorandum and other questions raised at the public hearing, as necessary. Written responses to all significant issues should be provided for analysis by the Planning Department prior to being scheduled for additional public hearings. The Planning Department will prepare an updated memo prior to any future public hearings.

ATTACHMENTS:

- Attachment A:** Special Permit 18-98(2)
- Attachment B:** Zoning Map
- Attachment C:** Land Use Map
- Attachment D:** Zoning Review Memorandum, dated May 28, 2020
- Attachment E:** DRAFT Council Order

FIVE PAGES.

K5



2010 00047113

Bk: 54445 Pg: 127 Doc: DECIS
Page: 1 of 5 03/25/2010 09:01 AM

Attachment A

#18-98(2)

CITY OF NEWTON ✓

IN BOARD OF ALDERMEN

March 1, 2010

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 AMENDMENT to SPECIAL PERMIT #18-98 to increase the number of seats from 65 to 88 and to permit accessory parking on an off-site lot, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Ted Hess-Mahan. The Board finds that:

1. Literal compliance with the parking requirements is impractical and that permission for accessory parking for employees on a residential lot (Newton Community Service Center located at 492 Waltham Street) is in the public interest as it will offset the number of additional parking stalls required by the expanded use and will free up parking spaces in the existing parking lot located to the rear of the site for customers.
2. The accessory parking facility is not farther than 150 feet from the boundary line of a business district and is within 500 feet of the lot on which the restaurant use is located. The facility for which this permit is requested is to be used solely for the parking of passenger automobiles accessory to a restaurant use which is lawfully established in said business district. Such parking facility will not be used for sales, repair work or servicing of any kind, and no advertising sign or material is to be located on such lot.
3. The specific site, close to multiple destinations for customers, is an appropriate location for the expanded 88-seat restaurant (after 5:30 p.m.) as the restaurant is an amenity to the surrounding community and will increase the vitality of the West Newton BU-1 zoned commercial district without adverse affects on parking, traffic, and circulation.
4. The expansion and additional seats at the restaurant will not adversely affect the neighborhood because the restaurant has a lease agreement dedicating up to 21 parking spaces for exclusive restaurant use after 5:30 p.m. in the parking lot located to the rear of the site and a lease agreement dedicating up to five parking spaces for the exclusive use of restaurant employees at a parking lot located at

10 MAR -3 PM 2:24
CITY CLERK
NEWTON, MA. 02159

PROPERTY: 1293-1297 WASHINGTON ST., NEWTON.
TITLE REFERENCE: BK 19835, PG 515

Rosenberg
246 Walnut St.
Newton, MA

A True Copy

City Clerk of Newton, Mass.

Newton Community Services Center, 492 Waltham Street, Newton after 6:00 p.m., which is approximately 200 feet from the site and will free up spaces located in the parking lot located to the rear of the site for use by customers..

5. This special permit will retain an existing use on the site.
6. The sharing of parking spaced at different times of day by different users is consistent with and encouraged by the *Comprehensive Plan*.

PETITION NUMBER: #18-98(2)

PETITIONER: Restaurant Arts, Inc./Kenmore Realty Corporation

LOCATION: 1293-1297 Washington Street, Section 33, Block 11, Lot 13 containing approximately 12,047 sq. ft. of land

OWNER: Kenmore Realty Corporation

ADDRESS OF OWNER: 1355 Washington Street, W. Newton, MA 02465

TO BE USED FOR: A restaurant, which also serves alcohol, with up to 88 seats after 5:30 p.m.; 32 seats may be used before 5:30 p.m.

CONSTRUCTION: Interior renovations and façade changes

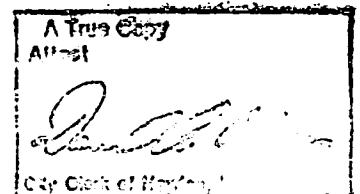
EXPLANATORY NOTES: §30-11(d)(9) and amendment to Special Permit No. 18-98 to expand a restaurant with more than 50 seats in a BU-1 zone; §30-19(f)(3) for approval of accessory parking on a residential lot; §30-23 for site plan approval; and §30-24(d) for special permit approval

ZONING: Business 1 District

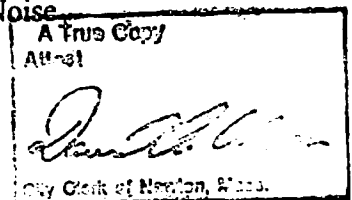
Note: This special permit supersedes prior special permit #18-98 and consolidates and incorporates herein those conditions and provisions from the prior special permit that remain applicable, are still in full force and effect, and are set forth in this special permit.

Conditions:

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



- “Site Plan of Land, Newton, MA to Accompany the Petition of Michael Leviton, Lumiere Restaurant,” dated 11/19/09, signed and stamped by John R. Hamel, Professional Land Surveyor on 11/24/09.
 - Architectural sketch of existing space and new seating, dated July 28, 2009, signed and stamped by Hobart Fairbanks, Registered Architect.
2. That the Petitioner shall provide a copy of the signed lease agreement dedicating up to five parking spaces for exclusive restaurant use after 6 p.m. at the Newton Community Services Center parking lot located at 492 Waltham Street, Newton.
 3. That the Petitioner shall limit parking in the Newton Community Services Center parking lot located at 492 Waltham Street, Newton, to employees of the restaurant only.
 4. Should the Petitioner lose the ability to lease five parking spaces from Newton Community Service Center at 492 Waltham Street, Newton, the petitioner must replace such stalls with a suitable, equivalent alternative subject to the approval of the Commissioner of the Inspectional Services Department and the Director of Planning and Development. The Petitioner shall have up to sixty days from the termination of the lease of said parking spaces to propose a suitable, equivalent alternative or forfeit the additional 23 restaurant seats until such parking can be procured. Pending the location of suitable, equivalent alternative parking spaces and the approval from the Commissioner of the Inspectional Services Department and the Director of Planning and Development the Petitioner may continue to use the additional 23 seats as approved herein.
 5. The petitioner shall promote the availability of parking spaces in the parking lot located to the rear of the site at the front desk of the restaurant, and on the restaurant’s website and telephone greeting message.
 6. The petitioner shall be allowed a maximum of 88 seats after 5:30 p.m. and a maximum of 32 seats before 5:30 p.m.
 7. All of the existing dumpsters shall be enclosed with a solid wood fence to screen them from the surrounding parking areas.
 8. The existing delivery area shall be clearly marked on the pavement next to the rear loading dock and that signage be maintained to keep an area clear for deliveries.
 9. The petitioner shall use best efforts to recycle all materials used in connection with the restaurant.
 10. Trash is picked up only between 7 a.m. and 6 p.m. Monday through Saturday, and trash removal shall meet all the requirements of the City of Newton Noise Ordinance.



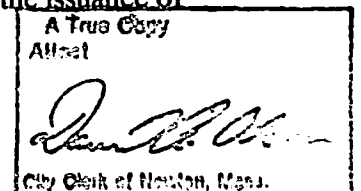
11. The petitioner shall not enter into an agreement with the owner of 515 Waltham Street to use that site for parking.
12. The petitioner shall submit a check to the City of Newton in the amount of \$1,200 to cover the cost of procurement and installation of two street trees and \$400 for the purchase and installation of bike racks in the West Newton area.
13. To the extent allowed by the City of Newton Department of Public Works, the petitioner shall install planters with flowering plants on the sidewalk in front of the exterior windows of the restaurant.
14. The facades treatment of the expanded restaurant area shall be consistent with the treatments of the facades of the existing restaurant space in order to show that the space inside is occupied for one integrated use.
15. 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. Submitted a check to the City of Newton in the amount of \$1,200 to cover the cost of procurement and installation of two street trees and \$400 for the purchase and installation of bike racks in the West Newton area.
16. The portion of the building subject to this special permit/site plan approval located at 1297 Washington Street, Newton, shall not be occupied until the petitioner has filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or registered engineer certifying compliance with Condition #1. *Note: pending and during construction of the portion of the expanded restaurant as approved by this special permit, Petitioner may continue to occupy and operate the restaurant at the existing location with up to a maximum of 65 seats for dinner service and 32 seats for lunch service as provided in the prior special permit #18-98.*

Under Suspension of Rules

Readings Waived and Approved

20 yeas 0 nays 4 absent (Aldermen Albright, Ciccone, Harney, and Salvucci)

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 March 3, 2010. 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:



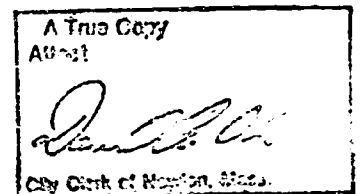
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

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 3/3 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:



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



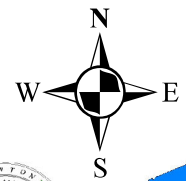
Zoning

527 Waltham Street
1293-1297 Washington Street

City of Newton,
Massachusetts


Zoning

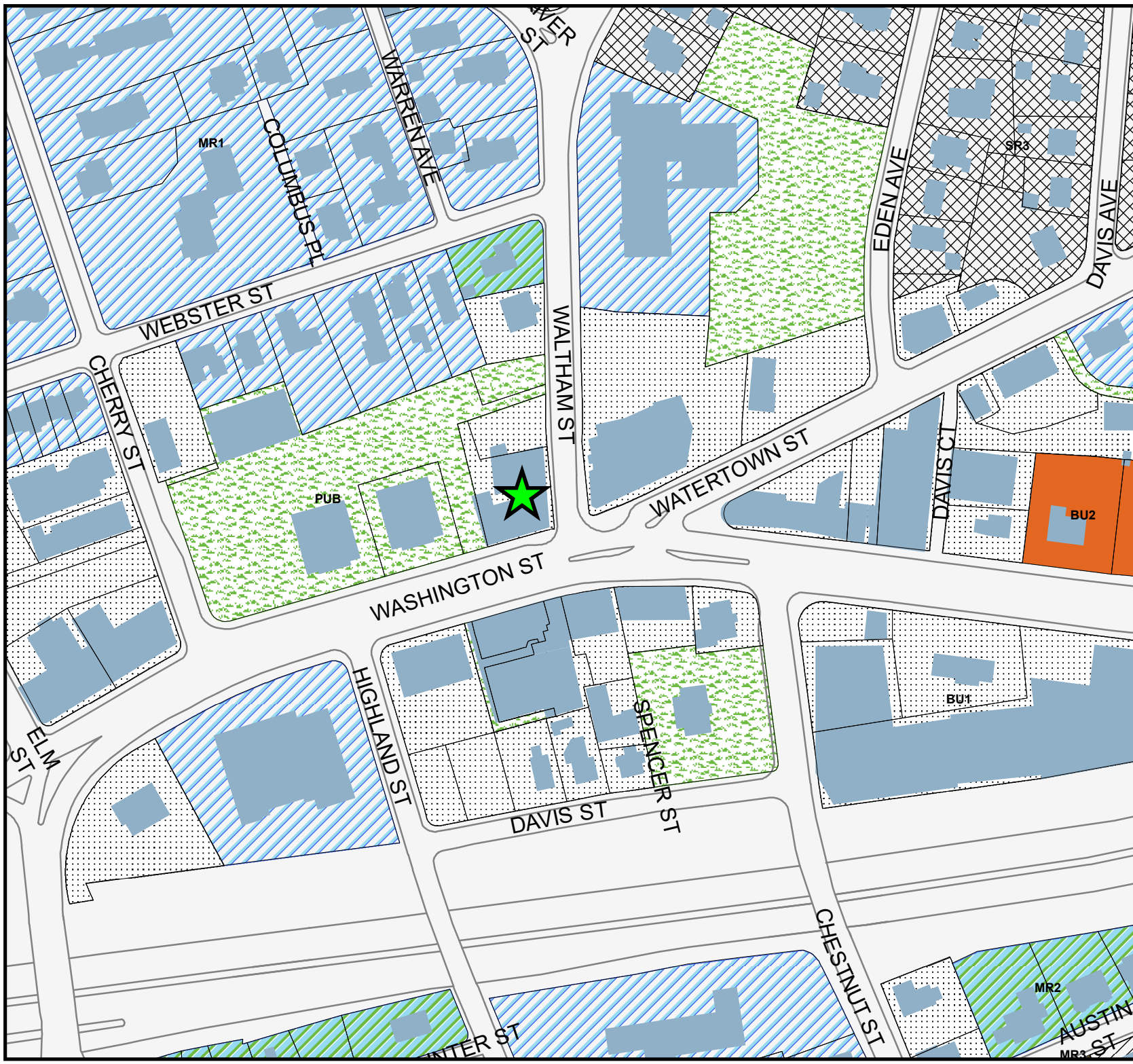
-  Single Residence 2
-  Single Residence 3
-  Multi-Residence 1
-  Multi-Residence 2
-  Multi-Residence 3
-  Business 1
-  Business 2
-  Public Use



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 - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 2.35 50 75 100 125 150 175 200 225
 Feet



ATTACHMENT C








Land Use

527 Waltham Street
1293-1297 Washington Street

*City of Newton,
Massachusetts*

Land Use

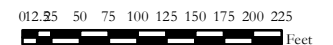
Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Mixed Use
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

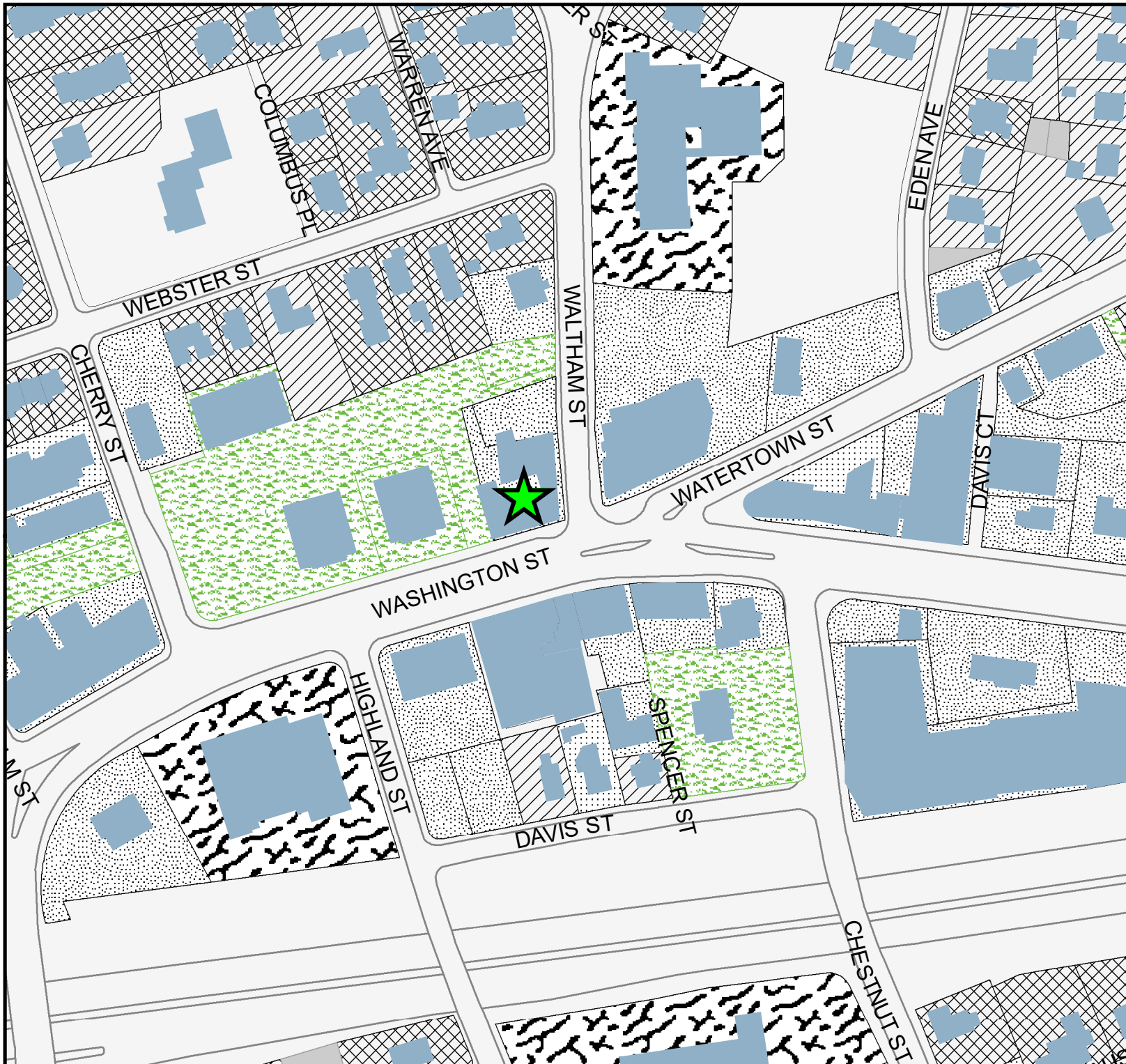


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: April 29, 2021





Ruthanne Fuller
Mayor

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

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: March 17, 2021

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Kenmore Realty Corporation, Applicant
Laurance Lee, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to amend Special Permits #18-98 and #18-98(2) and to waive five parking stalls

Applicant: Kenmore Realty Corporation	
Site: 527 Waltham Street (aka 1293-1297 Washington St)	SBL: 33011 0013 and 33011 0012
Zoning: BU1	Lot Area: 17,867 square feet
Current use: Restaurant	Proposed use: No change

BACKGROUND:

The property at 527 Waltham Street consists of 12,047 square feet and an adjacent 5,820 square foot parcel used for parking in the BU1 zoning district. The site is improved with a single-story commercial building with various commercial uses. The subject of this application is the space with the address of 1293-1297 Washington Street, formerly occupied by Lumiere Restaurant and currently occupied by Bluebird Bar & Wood-Fired Grill. The petitioner seeks to amend conditions to special permits granted in 1998 and 2010 to Lumiere.

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

- Zoning Review Application, prepared by Laurance Lee, Attorney, dated 2/10/2021
- Special Permits #18-98 and #18-98(2)

ADMINISTRATIVE DETERMINATIONS:

1. Special Permit #18-98 was granted in 1998 to allow for a restaurant with 65 seats and a waiver of 18 parking stalls. The special permit was amended with Special Permit # 18-98(2) in 2010 to expand the restaurant into an adjacent space, increasing the number of seats to 88 and to lease up to five parking stalls on a neighboring parcel. In both the 1998 and 2010 special permits, there contained a condition (Condition #6) limiting the restaurant to 32 seats before 5:30 PM, and to 88 seats after 5:30 PM. The petitioner seeks to eliminate the limitation on the number of seats before 5:30 PM, allowing for the use of all 88 seats during all hours of operation.
2. Special Permit 18-98(2) also required that the restaurant lease five parking stalls from property at 498 Waltham Street for use by employees of the restaurant in the evenings. The petitioner requests to amend the special permit to eliminate conditions #2, 3, 4 and 5 relative to the leasing of the five off-site parking stalls, and instead requests a waiver of those five stalls per section 5.1.4 and 5.1.13.

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
	Amend Special Permits #18-98 and #18-98(2)	
§5.1.4 §5.1.13	To waive five parking stalls	S.P. per §7.3.3

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the City Council, 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 18-98(2) to allow 88 seats before/after 5:30 PM, to remove conditions two through five, and to waive five additional parking stalls, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed waiver of five parking stalls due to its location in West Newton Square and proposed Transportation Demand Management measures for employees. (§7.3.3.C.1.)
2. The specific site is an appropriate location for the increase from 32 to 88 seats before 5:30 PM and removal of associated conditions because the additional seats during the day will increase the vibrancy of West Newton Square. (§7.3.3.C.1.)
3. The proposed waiver of five additional parking stalls will not adversely affect the neighborhood due to exclusive use of the adjacent parking facility after 5:30 PM and regular use before 5:30 PM. (§7.3.3.C.2.)
4. The proposed increase from 32 to 88 seats before 5:30 PM will not adversely affect the neighborhood. (§7.3.3.C.2.)
5. There will be no nuisance or serious hazard to vehicles or pedestrians due to the proposed Transportation Demand Management measures. (§7.3.3.C.3.)
6. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
7. Literal compliance with the parking requirements 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. (§5.1.3.E, §5.1.4 and §5.1.13)

PETITION NUMBER:

#102-21

PETITIONER: New Towne Hospitality LLC

ADDRESS OF PETITIONER: 1293 Washington Street
Newton, MA 02465

LOCATION: 1293-1297 Washington Street, Section 33, Block 11, Lot 12
and Section 33, Block 11, Lot 13 containing approximately
17,867 square feet of land

OWNER: Kenmore Realty Corporation

ADDRESS OF OWNER: 1293 Washington Street
Newton, MA 02465

TO BE USED FOR: Restaurant

CONSTRUCTION: Interior renovations only

EXPLANATORY NOTES: Special permit to amend Special Permit 18-98(2) to
remove conditions limiting the number of seats before
5:30 PM; and §5.1.3.B, §5.14, and §7.3.3 to waive five
additional parking stalls resulting in a 23 stall parking
waiver.

ZONING: Business 1

The prior Special Permits for this property is as follows: Special Permit #18-98 and #18-98(2), which allowed a restaurant with more than 50 seats, waived 18 parking stalls, and increased the number of seats from 65 to 88. This special permit supersedes prior Special Permits #18-98 and #18-98 (2) and consolidates and incorporates herein those conditions and provisions from the prior special permit that remain applicable and are set forth in this special permit.

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with the following plans:
 - a. "Site Plan of Land, Newton, MA to Accompany the Petition of Michael Leviton, Lumiere Restaurant," dated 11/19/09, signed and stamped by John R. Hamel, Professional Land Surveyor on 11/24/09.

2. 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 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 Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development; and
 - c. Obtained a statement from the Director of Planning and Development that all plans are consistent with Condition #1.
3. The restaurant shall have no more than 88 seats and 15 employees. Any increase to the number of restaurant seats or employees shall require an amendment to this Council Order.
4. The combined parking waiver of 23 stalls shall only apply to the restaurant use, any change in use pertaining to this site shall require an amendment to this Council Order.
5. The Petitioner shall implement Transportation Demand Management Measures to reduce vehicle trips to the site for employees. The Plan shall include, but not be limited to:
 - a. Providing subsidized transit passes at 100% subsidy which shall include but not limited to the MBTA services known as Link pass, express bus, and commuter rail.
 - b. Providing incentives for employees to rideshare or carpool to the site.
6. The existing dumpsters shall be enclosed with a solid wood fence to screen them from the surrounding parking areas.
7. The existing delivery area shall be clearly marked on the pavement next to the rear loading dock and that signage be maintained to keep an area clear for deliveries.
8. The petitioner shall use best efforts to recycle all materials used in connection with the restaurant.
9. Trash is picked up only between 7 a.m. and 6 p.m. Monday through Saturday, and trash removal shall meet all the requirements of the City of Newton Noise Ordinance.
10. The petitioner shall not enter into an agreement with the owner of 515 Waltham Street to use that site for parking.
11. To the extent allowed by the City of Newton Department of Public Works, the petitioner shall install planters with flowering plants on the sidewalk in front of the exterior windows of the restaurant.
12. The facades treatment of the expanded restaurant area shall be consistent with the treatments of the facades of the existing restaurant space to show that the space inside is occupied for one integrated use.

13. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
 - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement certifying compliance with Condition #1.

DRAFT