

RECEIVED

AUG 18 2015

Appendix B
TOWN OF ACTON
APPLICATION FOR SPECIAL PERMIT
(ZONING BYLAW)

Town of Acton
Planning Department

Indicate the type of Special Permit Requested: USE Special Permit
Under Zoning Bylaw Section: _____

Refer to the "Rules and Regulations for Special Permits" available from the Planning Department for details on the information and fees required for this application. Contact the Planning Department at 978-929-6631 with any questions concerning the Rules. Incomplete applications may be denied.

Please type or print your application.

1. Location and Street Address of proposed SPECIAL PERMIT 5A Spruce St
2. Applicant's Name Jinbo Li
Address 16 South High St dhebert9@
Telephone 974-293-0449 Email dhebert9@gmail
3. Record Owner's Name ~~F2A97~~ Presti Family LI
Address 585 MASS Ave, Acton 01720
Telephone 978-264-9991 Email ?
4. Town Atlas Map(s)/Parcel Number(s) F2A97
5. Zoning District (s) of Parcel(s) F2A97 - WAV
6. Detailed description of the proposed SPECIAL PERMIT:
50
Allow ~~the~~ seats in cafe, including
the seats outside
7. If applying for a USE SPECIAL PERMIT, declare all hazardous materials or wastes that are expected to be generated, stored, used, or disposed of by the proposed USE. The USE must comply with the TOWN'S Hazardous Materials Control Bylaw:

8. If there was a change in USE, please describe the previous USE on the site: NONE

9. If any SPECIAL PERMITS have been filed previously for this site give file numbers:

10. Please indicate expected number of employees, occupants and/or residents: 7-9

11. If a restaurant is proposed, please indicate number of proposed seats:

12. Hours of operation: M-5 7-3 Sunday 7:30-2:30

13. Please indicate the following:
Total NET FLOOR AREA (existing): 2000
Total NET FLOOR AREA (proposed): _____

14. Describe any proposed modifications to the exterior features or appearances of the STRUCTURE: NONE

15. If the proposed SPECIAL PERMIT is located on a developed site, please provide the site conditions for the following characteristics:

- LOT size: _____
- Total LOT coverage (existing): _____
- Total LOT coverage (proposed): _____
- Total OPEN SPACE (existing): _____
- Total OPEN SPACE (proposed): _____
- Total parking spaces provided on the site: _____
- Total parking spaces dedicated to proposed use (existing): _____
- Total parking spaces dedicated to proposed use (proposed): _____

The undersigned hereby apply to the Board of Selectmen for a public hearing and a special permit under Section 10.3 of the Zoning Bylaw approving the attached use form.

The undersigned hereby certify that the information on this application and plans submitted herewith is correct, and that all applicable provisions of Statutes, Regulations, and Bylaws will be complied with. The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Section 1-A of Chapter 268, General Laws of the Commonwealth of Massachusetts.

8/10/2015
Date

[Signature]
Signature of Petitioner(s)

[Signature]
Signature of Petitioner(s)

RECORD OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the application presented above.

8/17/15
Date

[Signature]
Signature of Record Owner(s)

Signature of Record Owner(s)

Roland Bartl

From: Richard Presti [rich.presti@gmail.com]
Sent: Monday, August 24, 2015 2:26 PM
To: Roland Bartl
Subject: Parking/Seating at 5-7-9 Spruce St

Mr Bartl,

Based on our meeting this morning, I have revised this letter to reflect our discussions/ decisions.

Below, please find a factual Timeline of the property known as 5-7-9 Spruce St, and issues that relate to both its use, parking and specifically seating for the property.

- * August -1992. Phillips Coffee Emporium gets Town approval to have 4 seats at their (primarily) "to go" coffee shop.
 - 464 sf of rentable space
 - 40 total " available/adjacent" parking spots, consisting of;
 - 34 "shared " spaces in the north parking lot
 - 6 on street / no time restriction spaces
 - old septic system
- * 2002-3. Previous owner installs a modern, large FAST septic treatment facility
- * September- 2003. Acton BOH approves 17 seats
- * November- 2003. PFLP purchases 5-7-9 Spruce St.

From 2003-2015 , 4 different operators run their cafe businesses from this location. Over this timeframe, those businesses occupy larger amounts of rentable space , and more accommodations are put in place to insure that there will be appropriate parking capabilities to service their needs! including " dedicated" parking.
- * 2015 Spring . Acton BOH approves the location for 50 seats, based on a recalculation of the "actual" capability of the treatment facility by a certified Engineer (this had not been done previously)
- * 2015 Summer. Legand Cafe is the new operator.
 - 2100sf of rentable space
 - 50 total " available/adjacent " parking spaces, consisting of;
 - 27 "shared" spaces in the north parking lot
 - 7 dedicated , tenant only spaces, north lot
 - 9 dedicated, Cafe only spaces, south lot
 - 4 , 2 hour only street parking spaces, in front of building

- 3 (new) , 2 hour only , street parking spaces.

Based on the above information, and applying a seat/parking ratio of 4.50 seats per applicable parking space (" Village" parking standards), it results in the following;

- utilizing the 16 "dedicated" parking spaces and only 1/3 of the other adjacent/available spaces , it results in 27 spaces X 4.50 = 121.50 seats
- utilizing ONLY the 16 "dedicated" spaces , and NONE of the adjacent/available spaces results in 16 X 4.50 = 72 seats

Based on other recent approvals that have been put in place by the Town, I believe that some amount of usage of adjacent/available parking spaces is normally taken into consideration in calculating seating to be allowed. At this time, we do not necessarily feel that is required. We are simply requesting that the an approval by the Planning Board/Board of Selectmen be consistent with the approval recently given by the Board of Health , of 50 seats (significantly below what the Zoning regulation standards allow) .

I have attached , as supporting documentation;

- pictures of the surrounding , available/ adjacent parking spaces,
- floor plan, indicating the size of Phillips
- parking lot diagram, indicating only off street available parking
- cover sheet of the 1992 Town approval for 4 seats to Phillips Coffee Emporium
- 2003 Design calculations, indicating a 15 seat restaurant (BOH)
- June 2015 BOH approval for 50 seats

I hope that the above information is useful in arriving at a reasonable , and business appropriate number of seats being allocated to the cafe operator . If there is additional information that would help in this determination, please let me know, and I will try to provide it.

Thank you for your efforts in this matter.

--
Richard Presti
585 Massachusetts Ave.
Acton, MA 01720

Phone: 978-264-9991
Fax: 978-264-9992



Town of Acton
 472 Main Street
 Acton, MA 01720
 Telephone (978) 929-6621
 Fax (978) 929-6340

Brian McMullen
 Principal Assessor

Locus: 3-5 SPRUCE ST
 Parcel: F2A-97

Parcel ID	LOCATION	Owner	Co-Owner	Mailing Address	City	ST
F2A-102	553 MASS AV	WEST ACTON AMERICAN/GLOBAL CO LLC	C/O ALLIANCE ENERGY LLC	15 NORTHEAST INDUSTRIAL ROAD	BRANFORD, CT 06405	
F2A-114	525-537 MASS AV	537 MASS AVE LLC		543 MASS AVE	ACTON, MA 01720	
F2A-112	543 MASS AV	543-545 MASSACHUSETTS AVENUE	LIMITED PARTNERSHIP	543 MASS AVE	ACTON, MA 01720	
F2A-113	541 MASS AV	541 MASS AVE LLC		543 MASS AVE	ACTON, MA 01720	
F2A-121	556 MASS AV	556 MASSACHUSETTS AVE LLC		556 MASS AV	ACTON, MA 01720	
F2A-122	552 MASS AV	PITTA JOSEPH P		554 MASS AVE	ACTON, MA 01720	
F2A-132	550 MASS AV	BEAUDOIN RAYMOND J	LUCILLE BARKER	554 MASS AVE	ACTON, MA 01720	
F2A-133	544 MASS AV	FLANNERY CECELIA JOAN	JANICE E	550 MASS AVE	ACTON, MA 01720	
F2A-136	5 KINSLEY RD	PHANEUF NEIL H		544 MASS AV	ACTON, MA 01720	
F2A-137	542 MASS AV	INDGE LUCY	HAGGERTY JON	4 SEACONET RD	MATTAPANSETT, MA 02739	
F2A-139	536 MASS AV	WEST BROOK PROPERTIES LLC		542 MASS AV	ACTON, MA 01720	
F2A-29-10	226 ARLINGTON ST	PHILBRICK SCOTT D	SHARYON D	607 BURROUGHS RD	BOXBOROUGH, MA 01719	
F2A-29-5	5 WEST RD	PLANTE RICHARD P		226 ARLINGTON ST	ACTON, MA 01720	
F2A-29-7	7 WEST RD	LIANG CAO		5 WEST RD	ACTON, MA 01720	
F2A-44	239 ARLINGTON ST	KLINGER MICHAEL L	DRAGO M CAROLE	7 WEST RD	ACTON, MA 01720	
F2A-45	235 ARLINGTON ST	LOCKE CYNTHIA A		239 ARLINGTON ST	ACTON, MA 01720	
F2A-80	245 ARLINGTON ST	IJAN 2MA REALTY LLC		235 ARLINGTON ST	ACTON, MA 01720	
F2A-61	241 ARLINGTON ST	LR PROPERTIES LLC		215 BUSINESS PARK DR	ARMONK, NY 10504	
F2A-70	232 ARLINGTON ST	SUN TAO	WANG YUTING	450 OLD UNION TURNPIKE	LANCASTER, MA 01523	
F2A-71	230 ARLINGTON ST	BARNES CHARLES A		232 ARLINGTON RD	ACTON, MA 01720	
F2A-81	240 ARLINGTON ST	BOTTOS CASSIANI N		230 ARLINGTON ST	ACTON, MA 01720	
F2A-82	15 SPRUCE ST	MERRILL ERNEST O JR TRUSTEE		253B SCHOOL ST	ACTON, MA 01720	
F2A-83	17 SPRUCE ST	HUNT EILEEN BURKE	DEMPSTER LINDA C	15 SPRUCE ST	ACTON, MA 01720	
F2A-83-1	19 SPRUCE ST	FERGUSON ALICE		17 SPRUCE ST	ACTON, MA 01720	
F2A-83-2	21A SPRUCE ST	ZENG CAPITAL LLC		19 SPRUCE ST	ACTON, MA 01720	
F2A-83-3	21B SPRUCE ST	KAZAKOV SERGEY		21A SPRUCE ST	ACTON, MA 01720	
F2A-83-4	23A SPRUCE ST	TRACIA WILLIAM A		21B SPRUCE ST	ACTON, MA 01720	
F2A-83-5	23B SPRUCE ST	ZHANG LIPING		PO BOX 219	BERLIN, MA 01503	
F2A-83-6	25A SPRUCE ST	BENHARBONE TATIANA		33 COLUMBUS ST	LEXINGTON, MA 02421	
F2A-83-7	25B SPRUCE ST	HORSBURGH GWYNN M		11 CENTRAL ST	ACTON, MA 01720	
F2A-91	555 MASS AV	BOTTOS LLC		25B SPRUCE ST	ACTON, MA 01720	
F2A-92	10 SPRUCE ST	BOTTOS CASSIANI N TRUSTEE		253B SCHOOL STREET	ACTON, MA 01720	
F2A-93	11 SPRUCE ST	PETERSEN ROY		253B SCHOOL ST	ACTON, MA 01720	
F2A-94-2	3 SPRUCE ST U2	BITTERROOT GROUP LLC		11 SPRUCE ST	ACTON, MA 01720	
F2A-94-3	1 SPRUCE ST U3	543-545 MASS AVE LMTD PTNRSP	NAOMI ROSENFELD	PO BOX 796	ACTON, MA 01720	
F2B-15	540 MASS AV	FLANNERY EDWARD W		543 MASS AV	ACTON, MA 01720	

Brian McMullen
Principal Assessor

Locus: 3-5 SPRUCE ST
Parcel: F2A-97

Parcel ID LOCATION Owner Co-Owner Mailing Address City ST

Abutters and owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list.

HEARING NOTICES FOR ALL SPECIAL PERMITS MUST BE SENT TO THE PLANNING BOARD, TOWN HALL IN THE FOLLOWING TOWNS:

Boxborough, MA 01729 Maynard, MA 01754 Concord, MA 01742 Littleton, MA 01460
Carlisle, MA 01741 Stow, MA 01775 Westford, MA 01886 Sudbury, MA 01776

Marty Abbott

Marty Abbott
Acton Assessors Office

8/5/2015

8/23/15

Mr Bartl,

Below, please find a factual Timeline of the property known as 5-7-9 Spruce St, and issues that relate to both its use, and specifically seating for the property.

* August -1992. Phillips Coffee Emporium gets Town approval to have 4 seats at their (primarily) "to go" coffee shop.

- 450sf of rentable space
- 40 total " available/adjacent" parking spots, consisting of;
 - 34 "shared " spaces in the south parking lot (*north side of apple barn*)
 - 6 on street / no time restriction spaces
- old septic system

* 2002-3. Previous owner installs a modern, large FAST septic treatment facility

* September- 2003. Acton BOH approves 17 seats

* November- 2003. PFLP purchases 5-7-9 Spruce St.

From 2003-2015 , 4 different operators run their cafe businesses from this location. Over this timeframe, those businesses occupy larger amounts of rentable space , and more accommodations are put in place to insure that there will be appropriate parking capabilities to service their needs.

* 2015 Spring . Acton BOH approves the location for 50 seats, based on a recalculation of the "actual" capability of the treatment facility , by a certified Engineer (this had not been done previously)

* 2015 Summer. Legand Cafe is the new operator.

- 2100sf of rentable space
- 50 total " available/adjacent " parking spaces, consisting of;
 - 27 "shared" spaces in the south parking lot
 - 7 dedicated , tenant only spaces, south lot
 - 9 dedicated, Cafe only spaces, north lot
 - 4 , 2 hour only street parking spaces, in front of building
 - 3 (new) , 2 hour only , street parking spaces.

34
Ⓣ
shared
9 dedicated
on north lot
(on south side)
7 on street

Based on the above information, and applying a seat/parking ratio of 4.25 seats per applicable parking space (3.5 seats per space, plus .75 for "Village" parking) , it results in the following;

- utilizing the 16 "dedicated" parking spaces and only 1/3 of the other adjacent/available spaces , it

results in 27 spaces X 4.25 = 114.75 seats

- utilizing ONLY the 16 "dedicated" spaces results in 16 X 4.25 = 68 seats

- utilizing ONLY the 9 dedicated "Cafe "parking spaces, and allowing for NO usage of any shared or public parking, results in 9 X 4.25 = 38 seats.

It is our hope that the appropriate number would be somewhere above the minimalist approach of utilizing only the 9 spaces , and take into consideration just some of the other available parking that can realistically service the business.

I hope that the above information is useful in arriving at a reasonable , and business appropriate number of seats being allocated to the cafe operator . If there is additional information that would help in this determination, please let me know, and I will try to provide it.

Thank you for your efforts in this matter.

--

Richard Presti
585 Massachusetts Ave.
Acton, MA 01720

Phone: 978-264-9991
Fax: 978-264-9992

9 "DEDICATED" SPACES
~~NORTH~~ PARKING LOT
SOUTH





ACTION SCHOOL OF BALLET
of the school

CAFE

CAFE

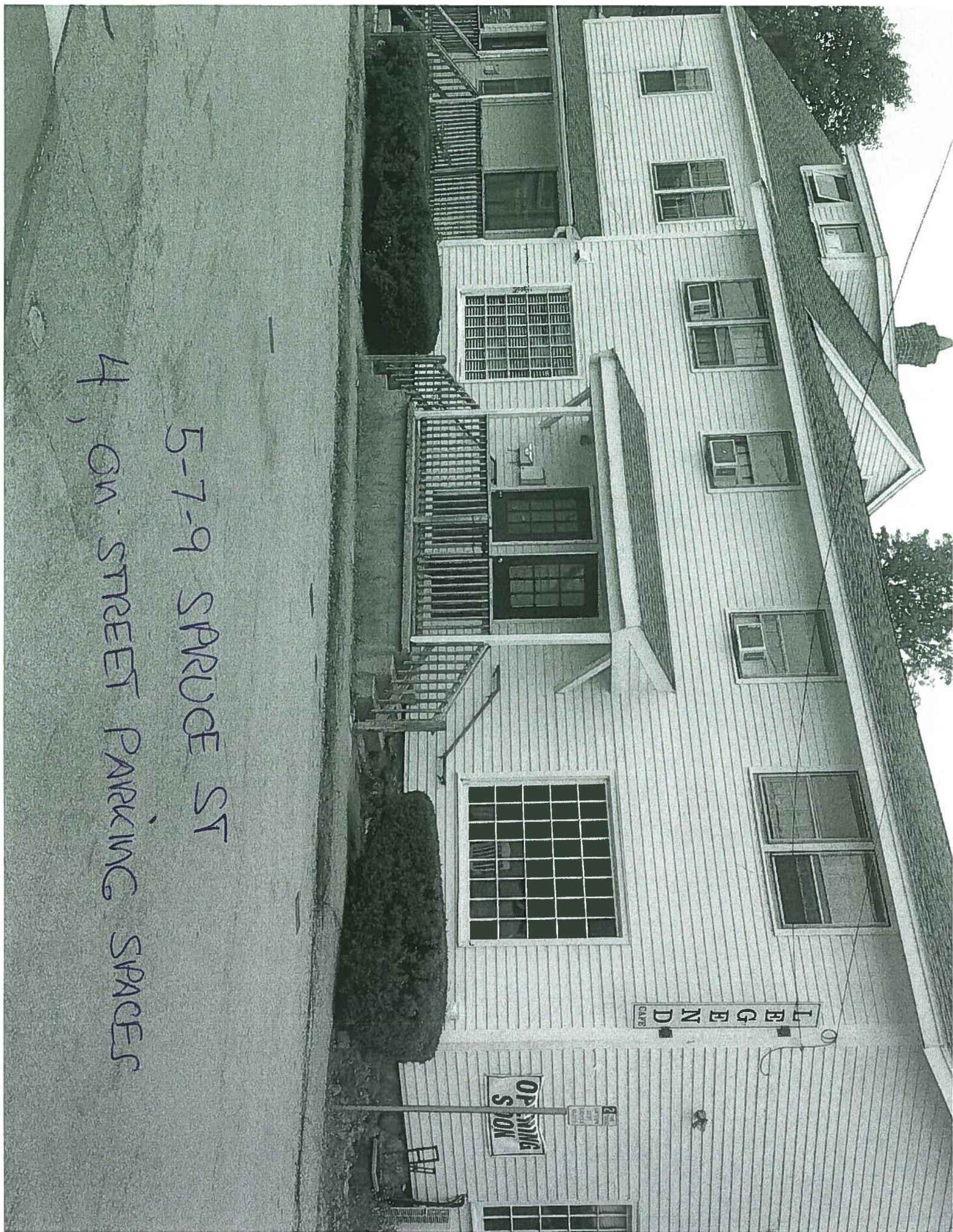
CAFE
PARKING
ONLY

9 DEDICATED SPACES

~~NORTH~~ LOT
SOUTH

5-7-9 SPRUCE ST

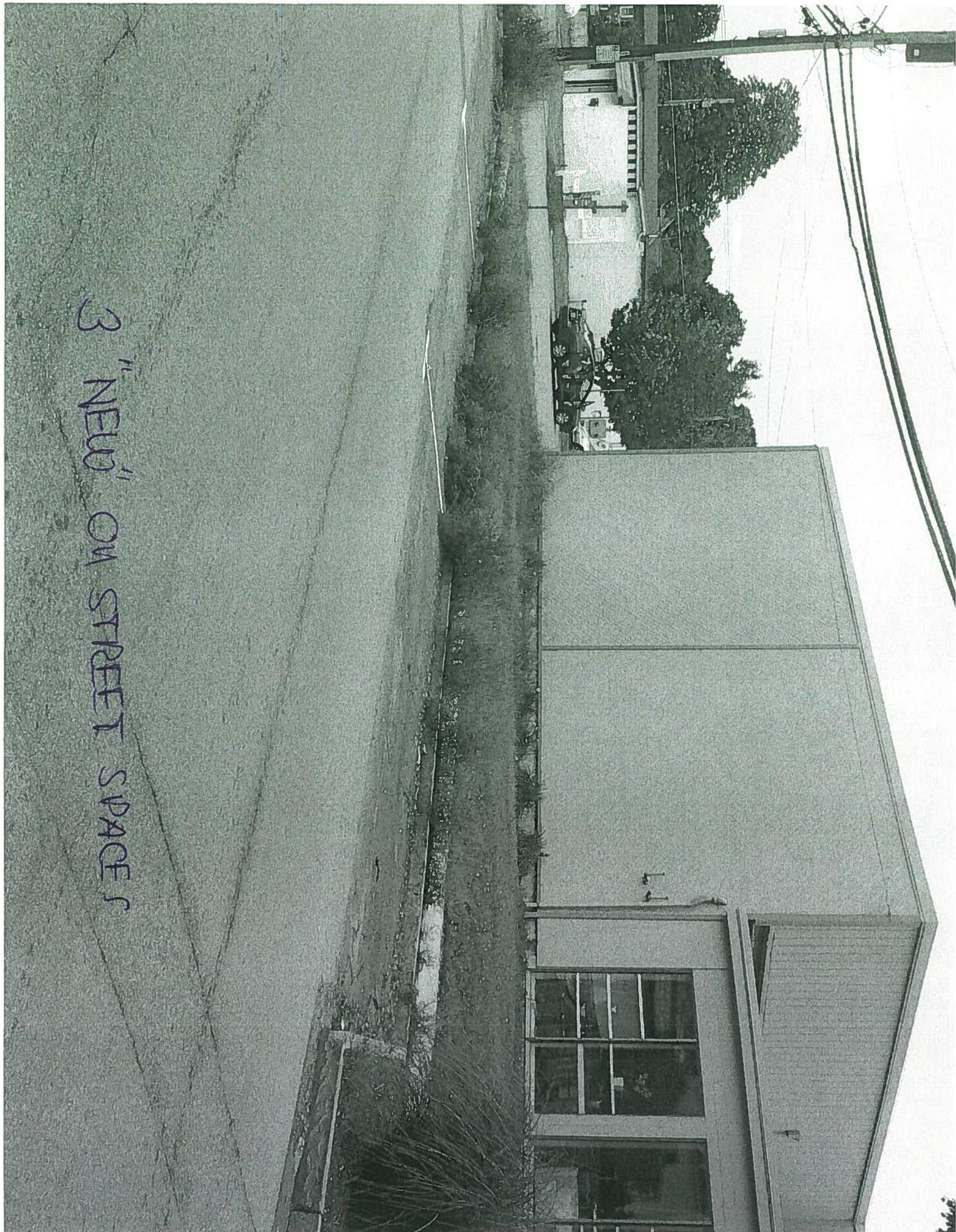
4, ON STREET PARKING SPACES



3 "NEW" ON STREET SPACES



3" NEW" ON STREET SPACE



SOUTH PARKING LOT
NORTH



**Resident
Parking
Only**



Violators will
be towed

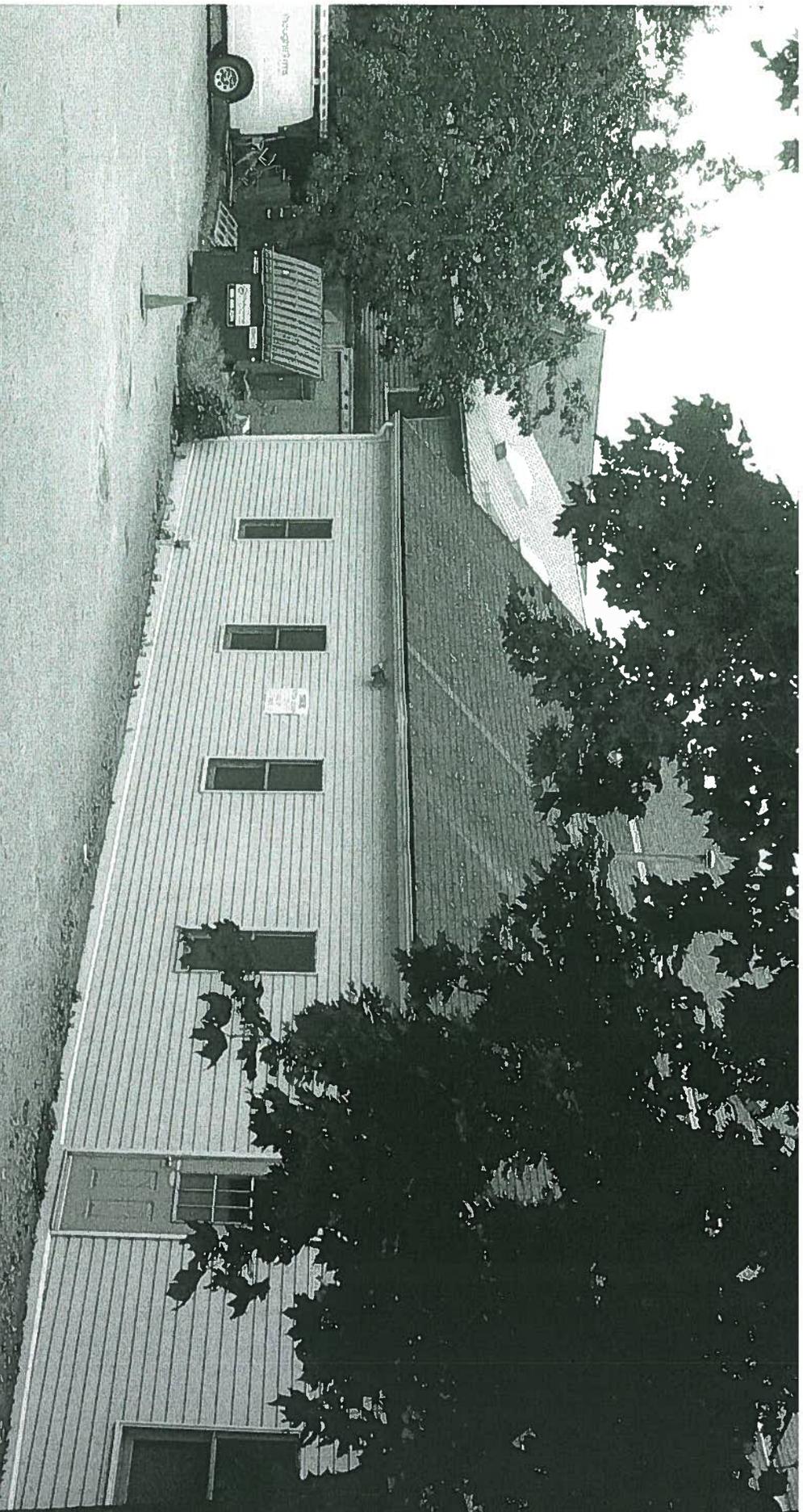


~~SOUTH~~ PARKING LOT
NORTH

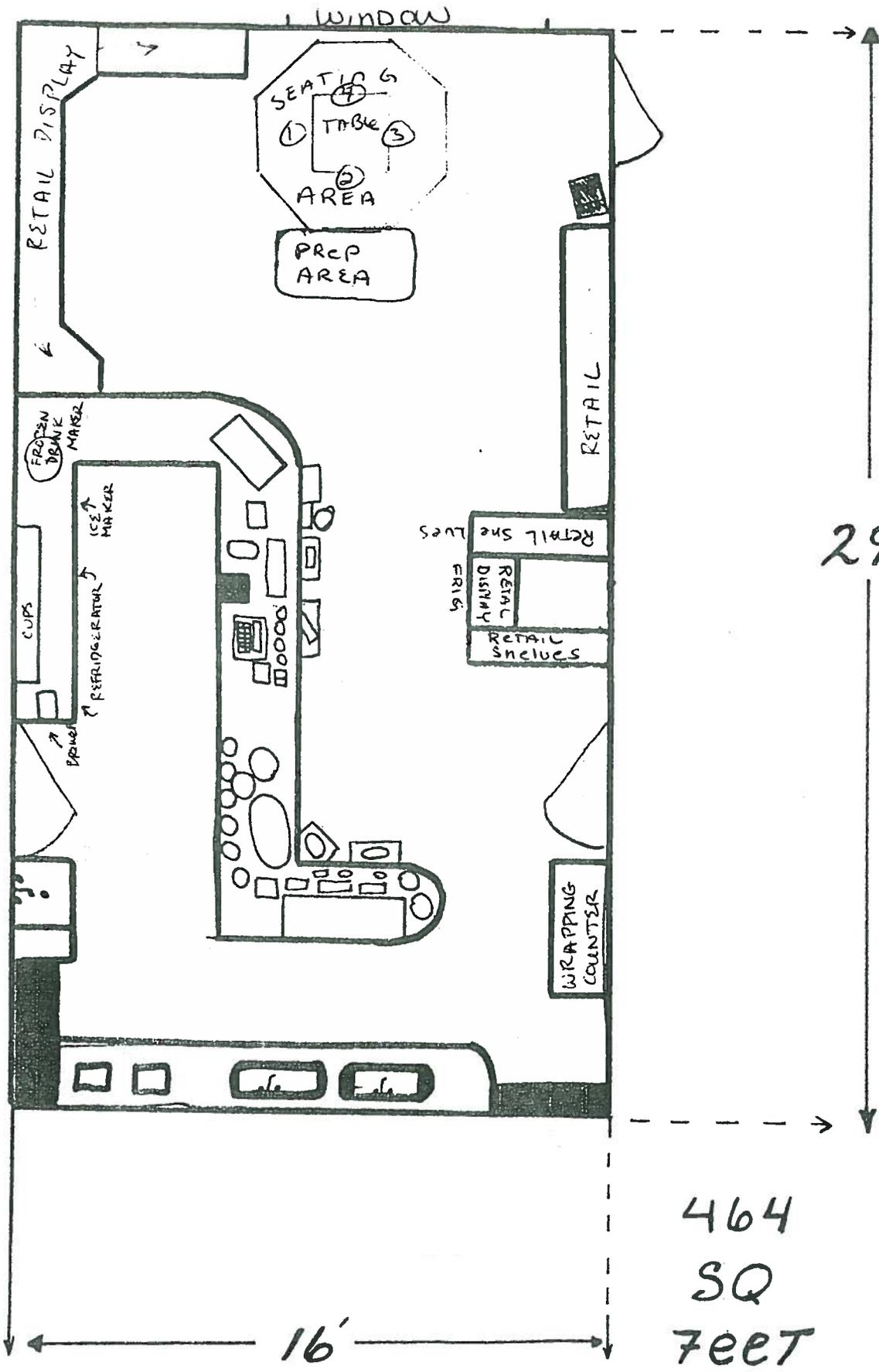
~~SOUTH~~ PARKING LOT
NORTH



~~SOUTH~~ PARKING LOT
NORTH



PHILLIPS COFFEE EMPORIUM.

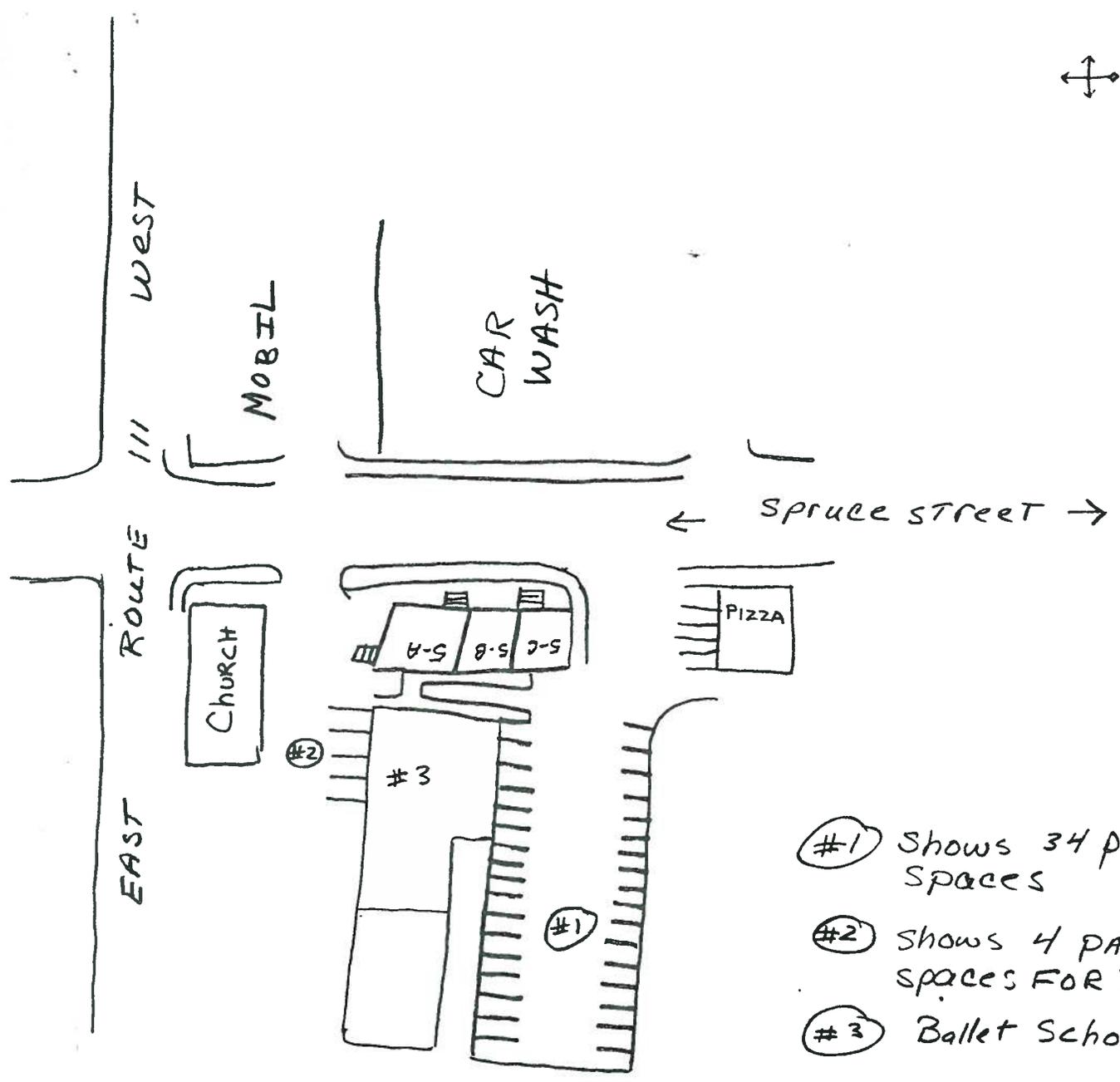


29'

16'

464
SQ
FEET

PROPOSED



- #1 Shows 34 PARKING SPACES
- #2 Shows 4 PARKING SPACES FOR Ballet
- #3 Ballet School

Phillips Coffee Emporium
5-B Spruce ST

Alicante
5-A Spruce st

AB Cards
5-C Spruce street

Decision of the Board of Selectmen (hereinafter the Board) on the Petition of Phillips Coffee Emporium (hereinafter the Petitioner) for the property located at 5 Spruce Street, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map F2A, parcel 97.

This Decision is in response to an application submitted to the Board on August 17, 1992 by the Petitioner for a Special Permit under Section 10.3 of the Acton Zoning Bylaw (hereinafter the Bylaw) to establish a restaurant.

After causing notice of the time and place of the public hearing and the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on October 20, 1992 at 7:45 p.m. in the Acton Town Hall, Acton, Massachusetts. Board members Nancy Tavernier, F. Dore Hunter, Anne Fanton, Norman Lake and William Mullin were present through the hearing.

The record of the proceedings and submissions on which this permit is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation, prior to the close of the hearing, were the following exhibits:

Exhibit I

A properly executed application for a Restaurant Special Permit; a plan showing the layout of the restaurant.

Exhibit II

Interdepartmental Communication (IDC) from the Building Commissioner to the Board dated October 16, 1992; IDC from the Health Officer to the Site Plan Coordinator dated August 27, 1992; a note from Tom Tidman, Conservation Officer to Garry Rhodes, Building Commissioner, undated; IDC from the Town Planner to Don P. Johnson, Town Manager, dated August 20, 1992; IDC from the Municipal Properties Director to the Town Manager dated August 20, 1992; IDC from the Engineering Department to the Town Manager dated August 25, 1992.

Exhibit III

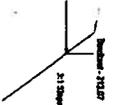
Interdepartmental Communication (IDC) from the Building Commissioner to the Board dated October 16, 1992; IDC from the Health Officer to the Site Plan Coordinator dated August 17, 1992. Note from Tom Tidman to Garry Rhodes, undated; IDC from the Town Planner to Don P. Johnson, Town Manager dated August 20, 1992; IDC from the Municipal Properties Director to the Town Manager dated August 20, 1992; IDC from the Engineering Department to the Town Manager dated August 25, 1992.

Revised - 2/12/16
3.1 Revisions

Profile



Pipe Detail



in Detail

Station
Elevation
Notes

General Notes

- The project work, design, construction and close out shall be completed in accordance with the project program. Construction schedule shall comply with 316 CMR 12.00.
- The project work, design, construction and close out shall be completed in accordance with the project program. Construction schedule shall comply with 316 CMR 12.00.
- Under and adjacent to existing, proposed, and new 4" PVC pipe shall be 4" PVC pipe bedding.
- Final grading over the existing man and storm sewers shall be in accordance with the existing man and storm sewer elevations.
- Overhead electrical lines shall be in accordance with the existing overhead electrical lines.
- All items shall be done in place, clean and new, and shall be in accordance with the existing 316 CMR 12.00.
7. All materials for the project shall be in accordance with the existing 316 CMR 12.00.
8. The contractor shall be responsible for obtaining the location of all existing utilities. The contractor shall be responsible for obtaining the location of all existing utilities. The contractor shall be responsible for obtaining the location of all existing utilities.
9. The contractor shall be responsible for obtaining the location of all existing utilities. The contractor shall be responsible for obtaining the location of all existing utilities. The contractor shall be responsible for obtaining the location of all existing utilities.
10. The contractor shall be responsible for obtaining the location of all existing utilities. The contractor shall be responsible for obtaining the location of all existing utilities. The contractor shall be responsible for obtaining the location of all existing utilities.
11. All existing structures shall be in accordance with the existing 316 CMR 12.00.
12. The contractor shall be responsible for obtaining the location of all existing utilities. The contractor shall be responsible for obtaining the location of all existing utilities. The contractor shall be responsible for obtaining the location of all existing utilities.
13. All existing structures shall be in accordance with the existing 316 CMR 12.00.
14. All existing structures shall be in accordance with the existing 316 CMR 12.00.

Design Calculations

Type of Establishment: 4 Bedroom Dwelling and 15 seat restaurant
 System Required: 15" 40' S
 Restaurant - 150 GPD, Dwelling 440 GPD
 Design Flow: 170 GPD
 Septic Tank Capacity: 1500 Gallons
 System Area: 2487 sqft 11th St
 System Provided:
 Septic Tank Capacity: 4000 Gallons
 System Area: 2530 sqft
 System Capacity: 1500 GPD
 Soil Classification: I
 LTRAR: 0.74 GPD/sqft 11th St

Proposed Elevations

Branch Manhole: 216.17 Nati in Tr
 Building Sewer: 214.50
 Grease Trap Inlet: 214.25
 Grease Trap Outlet: 214.00
 Septic Tank Inlet: 213.80
 Septic Tank Outlet: 213.55
 11th PAST Inlet: 213.25
 11th PAST Outlet: 213.00
 Pump Chamber Inlet: 212.50
 Outlet: 214.50 out-ditch
 Lateral Inlet: 211.83
 Boston Street: 210.83
 BSHROW: 207.85
 P.O. over S.A.S: 213.16 - 215.00



1. These proposed elevations are in accordance with 316 CMR 12.00 and applicable local regulations.

No.	Point	Elevation	Notes
1	Building Sewer	214.50	
2	Septic Tank Inlet	213.80	

ABC CessPool Inc.
 290 High Street
 Acton, MA 01720

Proposed Septic System
 3-S Spruce Street
 Acton, MA 01720

Test #	Depth	Direction	Size
1			< 2 inch

115' 200.92

Standing Water 68"
 C1 - Sand
 C2 - Gravel
 25y 686
 03-Work
 25y 686
 1 6' 3"

0' 213.50

D1

Date: 6/10/13
 Drawn by: Steve Ringer, P.E. Acton, MA
 I certify that I have prepared this construction approved by 316 CMR and that the design and analysis has been performed by me and/or under my direct supervision.

APPROVED
 Robert J. Kelly
 Professional Engineer
 No. 918103

APPROVED
 Steve Ringer, P.E.
 No. 821103



TOWN OF ACTON
Health Department
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9634
Fax (978) 264-9630

June 25, 2015

Rich Presti
5A Spruce Street
Acton, Ma 01510

Dear Mr. Presti:

At their regularly scheduled meeting on April 27, 2015, the Acton Board of Health unanimously approved to allow the use of water flow records to increase the allowed seats at the property located at 5A Spruce Street with the following conditions:

1. An total of 50 seats will be allowed conditioned on reduced hours of operation (5 days/week or less).

If you have any questions regarding this approval, please contact the Health Department at (978) 929-6632

Regards,



Sheryl Ball
Health Inspector