October 30, 2015

Acton Board of Selectmen
Katie Green, Chair
Acton Town Hall
472 Main Street
Acton, MA 01720

RE: Special Permit and Site Plan Special Permit Applications
252-256 Main Street, Acton, MA

Dear Ms. Green and Members of the Board:

The Applicant is in receipt of the following departmental comment letters:

1) Memorandum to the Board of Selectmen from Kristen Guichard, AICP dated October 26, 2015 ("Planning Memorandum");
2) Letter from the Water Supply District of Acton dated October 23, 2015 ("Water District Letter");
3) Letter from the Town of Acton Engineering Department dated October 23, 2015 ("Engineering Letter");
4) Email from Deputy Fire Chief Robert Hart dated October 23, 2015 ("Fire Department Letter");
5) Email from Sheryl Ball Public Health Inspector dated October 8, 2015 ("BOH Letter"); and
6) Email from Frank Ramsbottom, Acton Building Commissioner dated October 23, 2015 ("Building Department Letter").

In light of the above, the Applicant submits the following responses to the Board of Selectmen. Where a comment is made that does not require a response, the Applicant has not listed it in this letter:

Planning Memorandum:

1. *"There is an existing +/- 6 ft. sidewalk along the Site's frontage of Main Street. ZBL S. 5.6.3.1 requires a 10 ft. wide sidewalk with a 10ft. wide landscape buffer be provided. The Applicant should provide a 10 ft. wide sidewalk along the Main Street frontage for a distance equal to the length of frontage where modifications are being made on the Site."*

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Response: The plan has been modified to provide a 10' wide sidewalk along the Main Street frontage for a distance equal to the length of frontage where modifications are being made to the Site.

2. See below.
   a. *"At least 60 percent of the front side of a LOT facing a STREET, measured in percentage of linear feet of the LOT FRONTAGE, shall be occupied by BUILDINGS or by a pedestrian plaza that are located within 40 feet of the STREET sideline. A reduction of this requirement to 50 percent of the front side of a LOT may be allowed provided the Site Plan Special Permit Granting Authority finds that the alternative design features are consistent with Section 5.6.1 of this Bylaw."*

      Response: The plan has been modified to provide a pedestrian plaza located within forty (40) feet of the street sideline. Accordingly, sixty (60%) percent of the front side of the lot facing Main Street is now occupied by buildings or pedestrian plaza area per the bylaw.

   b. *"20% of the ground level portion of the building's front façade surface must be windows. Approximately 16.5% of the total building's front façade is covered by windows. The Applicant should verify that the ground level portion of the buildings front façade complies with this section or modify the design."*

      Response: The building design has been modified to provide 20% of the ground level portion of the front façade surface as windows.

   c. *"Highly reflective mirror windows are not allowed on building fronts. The Applicant should verify the window type."*

      Response: The Applicant proposes to use non-reflective mirror style windows. These are not highly reflective mirror windows.

   d. *"Roofs shall be gabled with a minimum pitch of 9/12 (9" vertical for every 12" horizontal) and have overhanging eaves of at least one foot. Two or three story BUILDINGS, or two or three story portions of a BUILDING, may have a flat roof provided that the tops of the BUILDING front facades are treated with an articulated cornice, dormers, or other architectural treatment that appears an integral part of the BUILDING from all visible sides of the BUILDING"*

      Response: The building design has been modified to comply with this requirement.

   e. *"The main features of the architectural treatment of the BUILDING front facades, including the materials used, shall be continued around all sides of the BUILDING that are visible from a STREET or a pedestrian plaza. The Site Plan Special Permit Granting Authority may approve alternate treatment of side and*

rear BUILDING walls that is consistent with Section 5.6.1 of the Bylaw and preserves the architectural integrity of the BUILDING as a whole."

Response: The building design has been modified to comply with this requirement.

3. *"Bicycle parking is not shown on the plan and is required under ZBL S. 6.3.7."*

   Reponse: Bicycle parking per ZBL S. 6.3.7 has been added to the Plan.

4. *"The modified parking lot along the south side of the proposed building is located +/-20ft from the property line where a 30ft setback is required under ZBL S. 6.7.2. The parking space closest to the street should be removed."*

   Response: The Applicant suggests that the parking lot along the south side of the proposed building as shown, while within the 30' setback, is precisely the same distance from the street as existing conditions. Section 8.4 of the Zoning Bylaws permits the continued use of land that is non-conforming with respect to parking requirements.

5. *"The Site has two access drives on Main Street, which are pre-existing non-conforming. There is an additional access drive located off Mass. Ave. The Applicant proposes to modify the northerly access drive on Main Street. The Site as modified is not automatically entitled to the two access drives under ZBL S. 6.7.3."*

   Response: The Applicant is not proposing to relocate of modify the curb cut within the right of way. Section 6.7.3 of the Zoning Bylaws is a subset of Section 6 entitled "Parking Standards." Accordingly, the single curb cut requirement cited in Section 6.7.3 is a parking requirement. Section 8.4 of the Zoning Bylaws states as follows:

   "Nonconforming Parking- This Bylaw shall not be deemed to prohibit the continued USE of any land or STRUCTURE that is nonconforming with respect to parking requirements."

   In this case, the land located at 252-256 Main Street has a preexisting parking requirement nonconformity in that it has two existing access driveways for a total of approximately 340' of frontage. Section 8.4 expressly allows the continued use of the land with that existing nonconformity in place.

6. *"ZBL S. 6.7.6 requires a minimum 10-foot wide perimeter landscape buffer for parking lots. The perimeter landscape between the modified parking lot and the proposed restaurant only shows a 9ft wide landscape area. The landscaped area should be widened to comply."*

   Response: The Plan has been modified to conform with this requirement.

Water District Letter:

1. *"The proposed development will require the owner, or owner's representative, to submit a "Water Impact Report" per Acton Water District (AWD) Rules & Regulations annotating all water efficiency and conservation measures to be implemented."*

   Response: A Water Impact Report will be submitted per the AWD Rules & Regulations upon approval.

2. *"All water mains, services, appurtenances and installation of such must comply with AWD specifications."*

   Response: All water mains, services, appurtenances and installations will comply with AWD specifications.

3. *"A final "As-Built" plan delineating exact locations of all water infrastructure must be submitted by the contractor or engineer prior to filling of any water mains for pressure test or disinfection per AWD specifications."*

   Response: Upon completion of the proposed reconstruction, a final As-Built plan will be submitted per this requirement.

4. *"Due to the proposed expansion of the building footprint, the existing 10" Cast Iron water main serving the existing structure and Kmart will be underneath the building. Additionally, the proposed 4,000-gallon Grease Trap will make the 10" pipe difficult to access without severe disruption. This, and service to the building, should be renewed and rerouted back to the Public Right of Way in Main Street outside of the building footprint."*

   Response: The Applicant will examine and reroute the water line, as necessary, per this comment and comply with AWD requirements.

5. *"Any new water service or fire line from the water main to a dwelling, building or structure will be in a separate, underground trench. No other utility will be in the same trench unless the District determines that the conditions prevent a separate trench. In such cases, a suitable plan prepared by a registered Professional Engineer will be submitted to the District for approval to insure safety and accessibility for repair, replacement or inspection of the lines located in the same trench."*

   Response: The Applicant will comply with this requirement.

6. *"AWD requests to see estimated water use and details on the proposed fixtures/appliances for the bathrooms and kitchen area. AWD recommends that High Efficiency (HE) fixtures be placed in restrooms and hand washing basins and that HE pre-rinse spray nozzles and dishwashing equipment be utilized."*

Response: The Applicant will provide details on the proposed fixtures and appliances during the building permit process.

7. *"The need for irrigation at this project has not been indicated. Alternative sources of irrigation water should be explored, especially collection of rooftop runoff, since this project is constrained in its stormwater management options. AWD expects this to be addressed in the Impact Report."*

   Response: The Applicant anticipates that irrigation will be minimal, consistent with a commercial use with landscape areas of the proposed scope.

8. "All grass and plantings should be native and drought tolerant to reduce irrigation needs."

   Response: The Applicant has selected drought tolerant, native plantings for the project landscape scheme.

<u>Engineering Letter:</u>

1. *The applicant is proposing 189 interior and 51 seasonal use seats for the proposed restaurant. A privilege fee is assessed on properties which intensify the use beyond what was assessed as a betterment. The former McDonald's restaurant was assessed a betterment of 10.98 sewer betterment units (SBUs) which equates to 94.11 seats. Based on these numbers and a privilege fee of $12,311.52 per SBU, the increase from 94.11 seats to 189 interior seats would equate to a privilege fee of $136,294.68.*
   For the 51 seasonal seats, the applicant may request a reduction in the privilege fee relative to the seasonal use of those seats. Assuming the seasonal use is 4 months of the year, the privilege fee for the 51 seasonal seats can be reduced to $24,417.85 if approved by the Board. Assuming a reduced fee for the seasonal seats, the total privilege fee is $160,712.53. A more detailed breakdown of the privilege fee calculation has been provided with this memo.

   Response: The Applicant agrees with the assessment as it pertains to the 189 seats. However, the Applicant suggests that no privilege fee be assessed for the outdoor patio area. In the Applicant's extensive experience in operating restaurants with outdoor seating, the outdoor seating does not generate higher water usage. Instead, it merely provides an option for a customer to exercise a preference to either sit indoors or outdoors. Accordingly, the Applicant respectfully requests that the privilege fee be capped at $136,294.68.

2. *"A sewer connection permit will be required from our office."*

   Response: The Applicant will obtain a sewer connection permit.

3. *"A cleanout is required on connections over 100-feet in length."*

Response: A sewer cleanout has been added to the sewer service shown on the revised plan set.

4. "*A metal ferrous rod or pipe is required at the 90-degree bend at the chimney connection.*"

   Response: A note has been added to the plan set identifying this requirement.

5. "*The grease trap must conform to Title 5 standards which we will defer to the Board of Health as to whether the proposed grease trap complies.*"

   Response: The grease trap will comply to Title 5 standards.

10. "*The horizontal datum should be NGVD 1929"*

    Response: The horizontal datum will be NGVID 1929

11. "*No earth removal calculations were provided with the application, though we suspect the amount is minimal.*"

    Response: Proposed earth removal is de minimis.

<u>Fire Department Letter:</u>

1. " *I don't see provisions for a fire department connection for the required sprinkler system. A hydrant must be located within 100 feet of said connection.*"

   Response: The Plan has been revised to indicate a fire department connection and hydrant within 100 feet of such connection. Details to be provided at time of submittal for building permit.

2. "*Further the site plan shall comply with 527 CMR 1.0 and NFPA 1141.*"

   Response: The Applicant will ensure Plan compliance with all applicable regulations.

3. "*More information is needed about the patio seating, it looks like the only entry to this patio area is through the building. Therefore, in an emergency, the patrons would be forced back into the building to exit.*"

   Response: The patio area, as shown on the plan, is a open patio, roughly at grade, that will be defined by 42" high piers with chains between the piers. There will be an opening so unimpeded access will be available to the main entrance. Re-entry through the building is not required.

BOH Letter:

1. *"A plan review of the proposed restaurant will be required by the Health Department prior to construction along with application and fee."*

   Response: Prior to construction, the Applicant will submit the final plan for review by the Health Department.

2. *"The external grease trap must be upgraded to accommodate the increase in seats – 750 gallons provided; 3600 gallons required."*

   Response: The Applicant is proposing a 4,000 gallon grease trap.

3. *"The dumpster must be surrounded by a fence and equipped with a lockable gate. The dumpster must be licensed by the Health Department on a yearly basis."*

   Response: The Applicant is proposing a fenced dumpster corral that will include a lockable gate and will be licensed by the Health Department on a yearly basis. A note has been added to the dumpster enclosure detail to meet this requirement.

Building Department Letter:

1. *"I missed it but it was not clear to me if the occupancy of 189 includes the outdoor seating."*

   Response: The Applicant is proposing 189 all-year, indoor seats. The patio seats are additional, seasonal seats.

2. *"Do you know if the applicants intended to ever have entertainment?"*

   Response: The Applicant intends to have entertainment in the form of TVs, recorded music and live music.

We look forward to discussing the above at the hearing scheduled for November 2, 2015. Thank you for your time and consideration.

Sincerely,

Kevin S. Eriksen