



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 929-6611
Fax (978) 929-6350

Board of Selectmen

**LEGAL NOTICE
TOWN OF ACTON**

The Acton Board of Selectmen will hold a public hearing on December 7, 2015 at 7:30 PM (continued from November 2, 2015) in the Francis Faulkner Hearing Room 204 at the Town Hall, 472 Main Street, Acton on the application of Ryan Development, LLC, 2 Lan Drive, Westford, MA for a Site Plan Special Permit # 09/11/15 – 457 building raise existing structure and new construction required under Section 10.3 and 10.4 of the Acton Zoning Bylaw at 252 Main Street, Acton, MA 01720. The application and accompanying plans can be inspected at Town Hall during normal business hours.

Acton Board of Selectmen

Selectmen Green



RECEIVED

NOV 03 2015

TOWN CLERK
ACTON

AGREEMENT ON TIME EXTENSION

The Board of Selectmen and the Petitioner for a Special Permit

_____ Site Plan Special Permit _____

(identify type of permit)

File Number: _____ #09/11/2015-457 _____

Petitioner Name: _____ Ryan Development _____

Project Name: _____ Building raise + construction, 110 Grill _____

Location/Address: _____ 252-256 Main St. _____

Hereby agree to continue the Public Hearing to:

(date): _____ December 7, 2015 _____

(time): _____ 7:30 pm _____

And to extend the legally required time limit in which the Board of Selectmen must render a decision to 90 days following the date of the hearing continuance stated above.

Signed this date: _____ November 2, 2015 _____

_____ K. E. G. _____

Board of Selectmen

_____ [Signature] _____

Petitioner

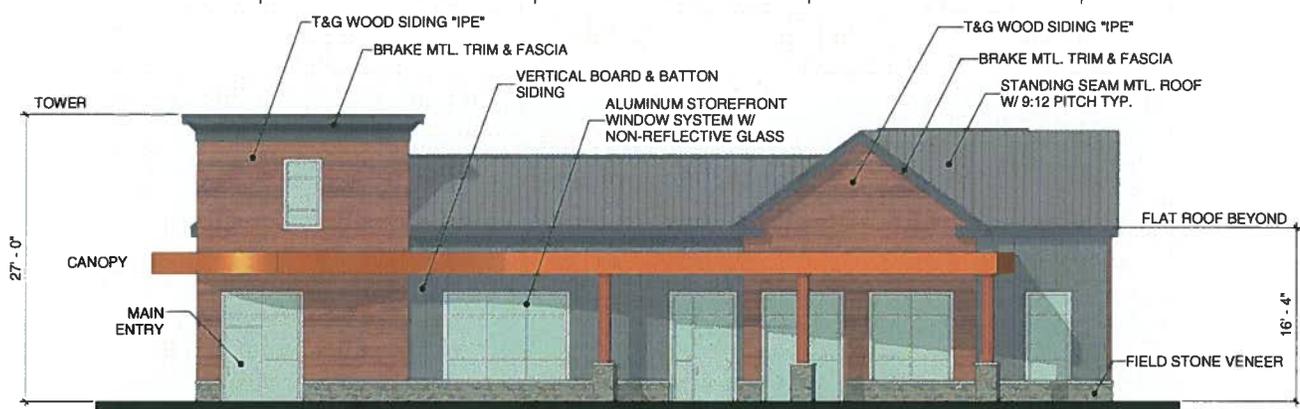
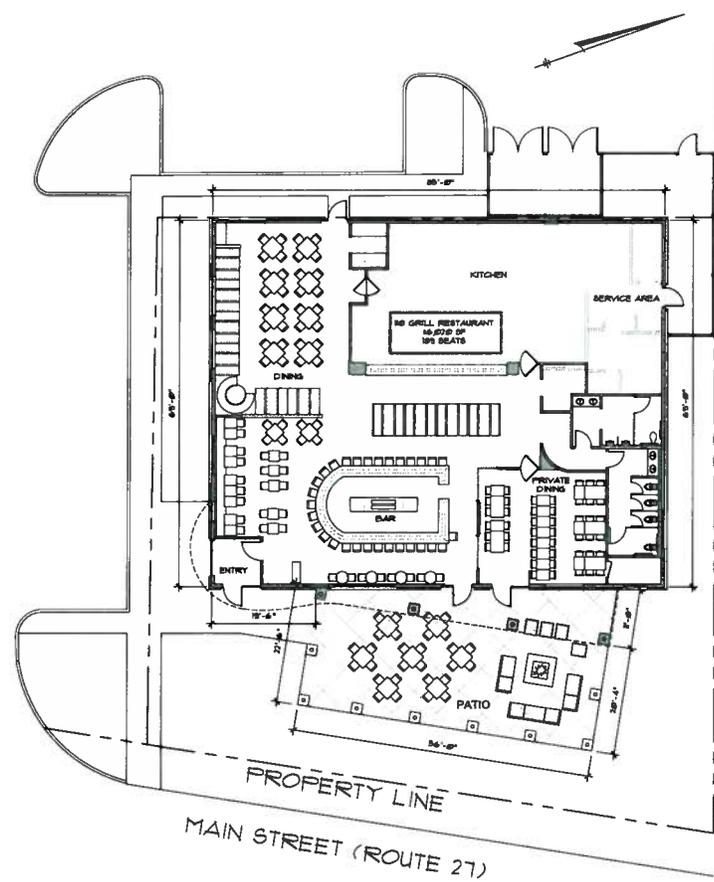
This agreement must be filed with the Office of the Acton Town Clerk.

Floor Plans, Elevations, Street Perspective

Updated Nov 5

JD LAI 2015 ©

NO.	DATE	DESCRIPTION
1	11/11/15	ISSUED FOR PERMIT
2	11/11/15	ISSUED FOR PERMIT
3	11/11/15	ISSUED FOR PERMIT
4	11/11/15	ISSUED FOR PERMIT
5	11/11/15	ISSUED FOR PERMIT
6	11/11/15	ISSUED FOR PERMIT
7	11/11/15	ISSUED FOR PERMIT
8	11/11/15	ISSUED FOR PERMIT
9	11/11/15	ISSUED FOR PERMIT
10	11/11/15	ISSUED FOR PERMIT
11	11/11/15	ISSUED FOR PERMIT
12	11/11/15	ISSUED FOR PERMIT
13	11/11/15	ISSUED FOR PERMIT
14	11/11/15	ISSUED FOR PERMIT
15	11/11/15	ISSUED FOR PERMIT
16	11/11/15	ISSUED FOR PERMIT
17	11/11/15	ISSUED FOR PERMIT
18	11/11/15	ISSUED FOR PERMIT
19	11/11/15	ISSUED FOR PERMIT
20	11/11/15	ISSUED FOR PERMIT



① EAST (MAIN ST. ELEVATION)
 1/4" = 1'-0"

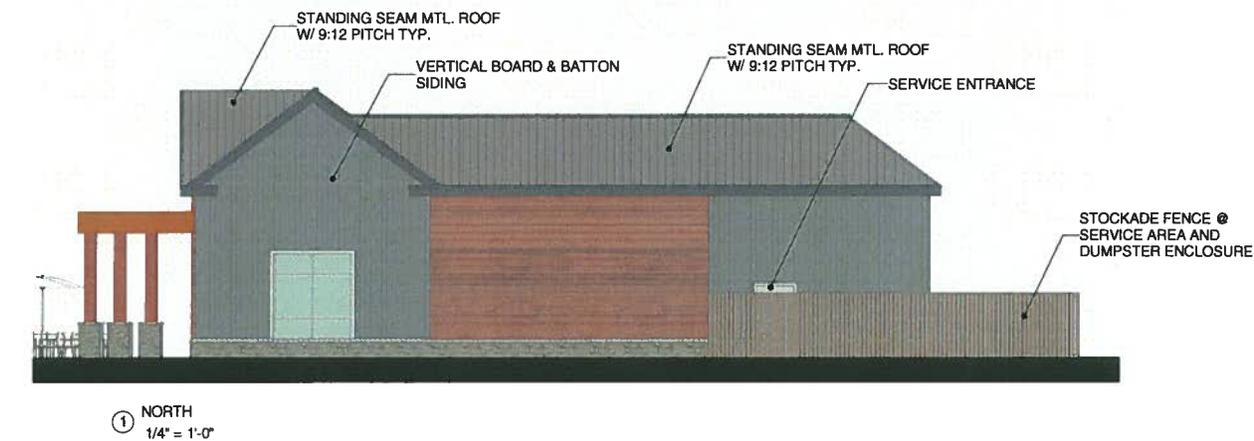
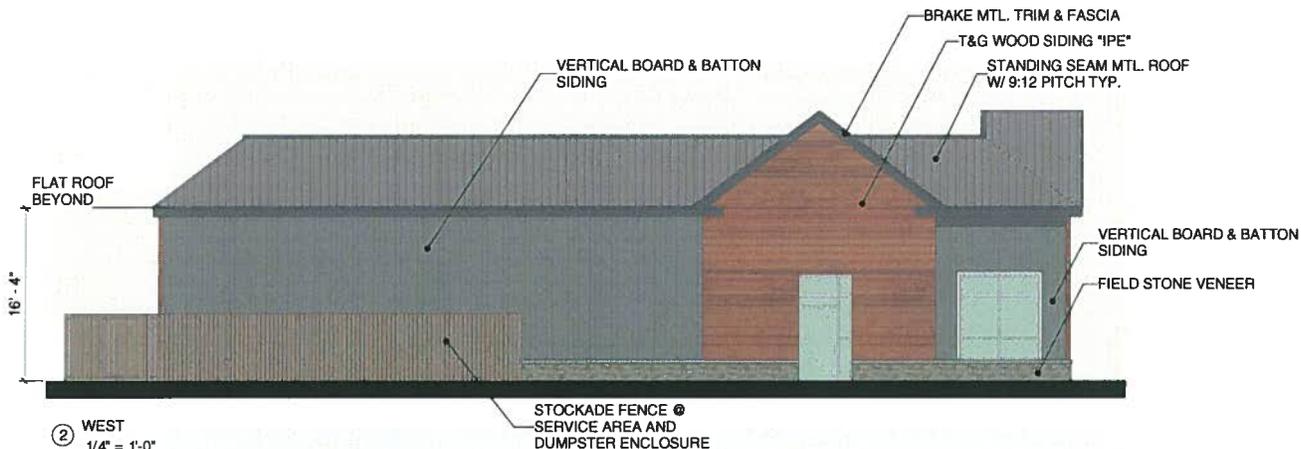
NOTE:
 FACADE FACING THE STREET IS 28% GLAZED AT GROUND LEVEL



② SOUTH
 1/4" = 1'-0"

JD LAI 2015 ©

NO.	DATE	DESCRIPTION
1	11/11/15	ISSUED FOR PERMIT
2	11/11/15	ISSUED FOR PERMIT
3	11/11/15	ISSUED FOR PERMIT
4	11/11/15	ISSUED FOR PERMIT
5	11/11/15	ISSUED FOR PERMIT
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15	11/11/15	ISSUED FOR PERMIT
16	11/11/15	ISSUED FOR PERMIT
17	11/11/15	ISSUED FOR PERMIT
18	11/11/15	ISSUED FOR PERMIT
19	11/11/15	ISSUED FOR PERMIT
20	11/11/15	ISSUED FOR PERMIT



JD LaGrasse
 ARCHITECTURE, INC.
 1100 North Main Street, Suite 100
 Columbus, Georgia 31906
 Phone: 706.325.1100
 Fax: 706.325.1101
 www.jdlaGrasse.com

110 GRILL
 258 Main Street

ELEVATIONS CONT.

JULAI 2015 ©

A3



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110 GRILL
 258 Main Street

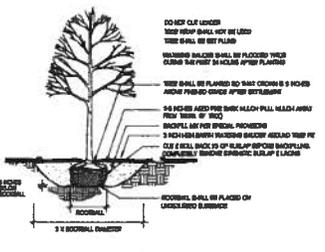
STREET PERSPECTIVE

JULAI 2015 ©

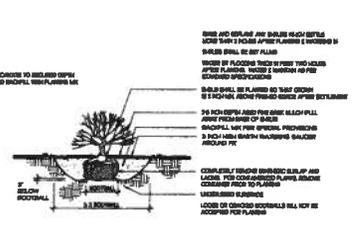
R1

Landscape Plan

Updated Nov 5



1 Tree Planting Detail
NOT TO SCALE



2 Shrub Planting Detail
NOT TO SCALE

Plant List:
SHADE & ORNAMENTAL TREES (B&B unless otherwise specified) All trees to be tagged by the Landscape Architect

No.	Key	Botanical Name	Common Name	Installation Size	Maturity Size
1	OT	Quercus L. Virens	Honeylocust	2-2.5' Cal.	25 ft.
SHRUBS					
No.	Key	Botanical Name	Common Name	Installation Size	Maturity Size
3	HP	Hydrangea paniculata	Limelight	2-3 ft. B&B	6 ft.
10	IC	Rosa crinita	Yellow	42 gal	3-4 ft.
9	JH	Juniperus horizontalis	Blue Chip	42 gal	6 ft.
4	PD	Physocarpus opulifolius	Diablo	42 gal	6 ft.
2	PD	Rosa 'Knock-Out'	Red Knock-Out Rose	42 gal	3 ft.
13	SJ	Spiraea japonica	Shirobana	42 gal	3 ft.
8	HP	Thymus serpyllifolius	Wild Thyme	42 gal	3 ft.
PERENNIALS					
No.	Key	Botanical Name	Common Name	Installation Size	Maturity Size
70	HA	Hemerocallis 'Happy Return'	Daylily	11 gal	18 in.
20	PF	Phlox paniculata	Shades of Purple	42 gal	3 ft.

HOWARD STEIN HUDSON
114 Tupper Lake, Suite 202
Cherry Hill, MA 01224
www.hsthd.com

Lorraine Black ASA
Landscape Architect

PREPARED FOR:
RDM DEVELOPMENT LLC
1 LAW DRIVE
WESTFORD, MA

110 GRILL
256 MAIN STREET
(ROUTE 27)
TOWN OF ACTON
MIDDLESEX COUNTY
MASSACHUSETTS

REVISIONS

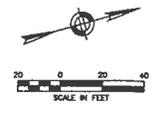
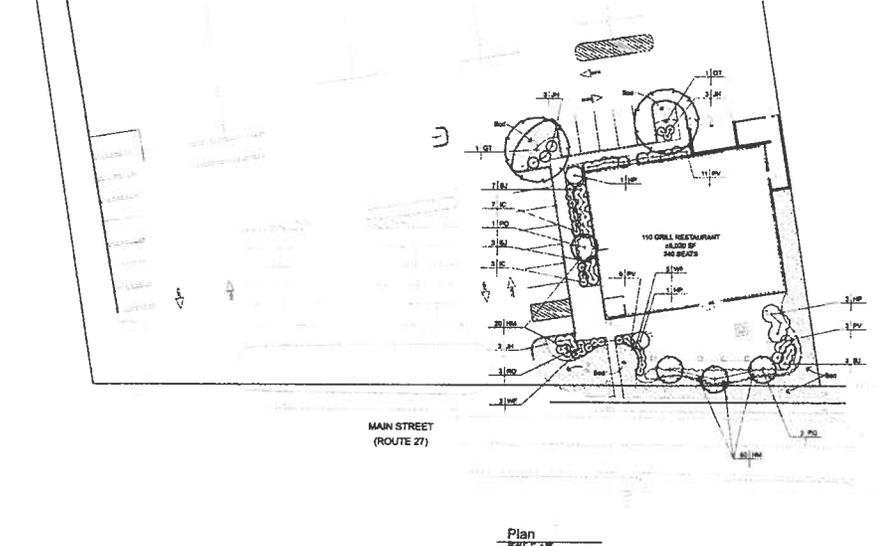
NO.	BY	DATE	DESCRIPTION

Grayspeak

SITE PLAN

LANDSCAPE PLAN

DATE: 08-08-2011
PROJECT NUMBER: 10086
DESIGNED BY: LB
DRAWN BY: LP
CHECKED BY: LB
L-1



Site Plan

Updated Nov 5

- NOTES:**
1. ALL WATER MAINS, SERVICES, APPURTENANCES, AND INSTALLATION OF SUCH MUST COMPLY WITH ADO. SPECIFICATIONS.
 2. SITE PLAN SHALL COMPLY WITH 527 CMR 1.0 AND MPA 1141.

HOWARD STEIN HUDSON
 14 Farnfield Road, Suite 200
 Cranford, MA 02024
 www.hshhvac.com

PREPARED FOR:
 RYAN DEVELOPMENT LLC
 4 LAM DRIVE
 WESTFORD, MA

110 GRILL
 256 MAIN STREET
 (ROUTE 27)
 TOWN OF ACTON
 MIDDLESEX COUNTY
 MASSACHUSETTS

REVISIONS:

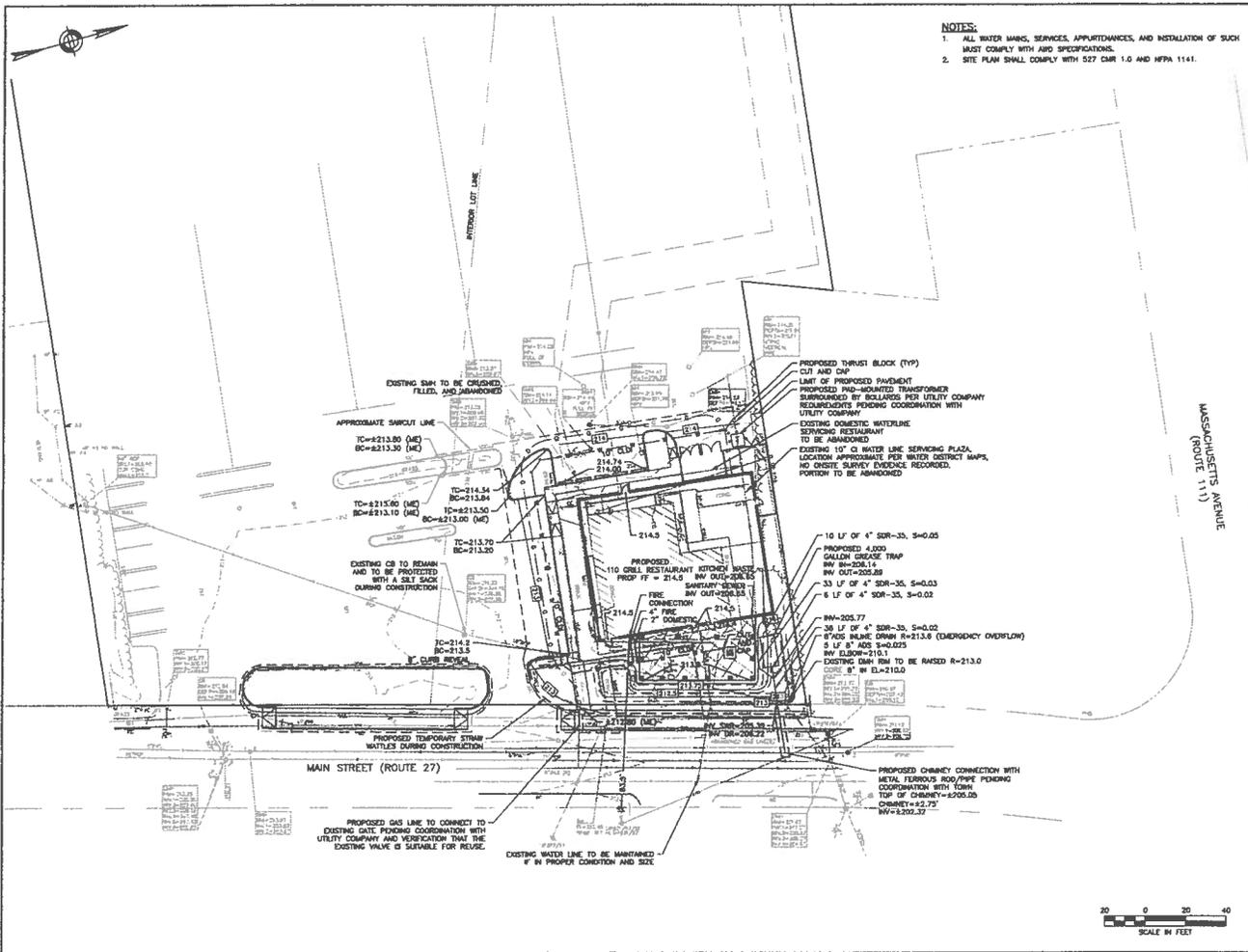
NO.	BY	DATE	DESCRIPTION
1	HSB	10-31-10	REV. BUILDING
2	HSB	10-28-10	REV. SITE PLAN



SITE PLAN

GRADING,
 DRAINAGE, AND
 UTILITY PLAN

DATE: 09-09-2010
 PROJECT NUMBER: 15007
 DESIGNED BY: DMR
 DRAWN BY: HESDOR
 CHECKED BY: KLE
 3



DATE: 09-09-2010

PREPARED FOR:
 RYAN DEVELOPMENT LLC
 11 LAMORNE
 WESTFORD, MA

110 GRILL
 256 MAIN STREET
 (ROUTE 27)
 TOWN OF ACTON
 MIDDLESEX COUNTY
 MASSACHUSETTS

REVISIONS:

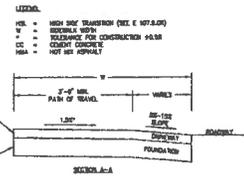
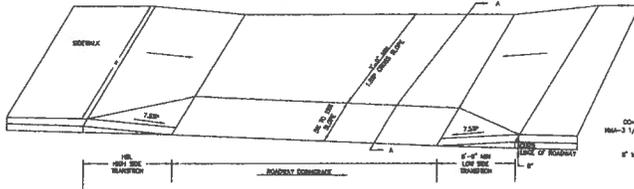
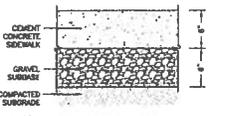
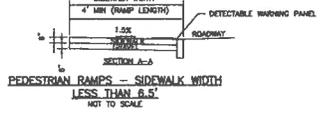
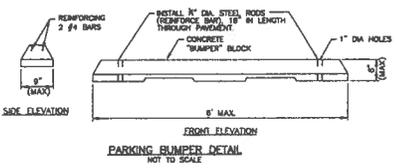
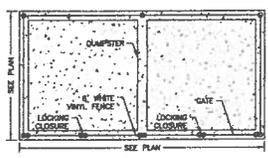
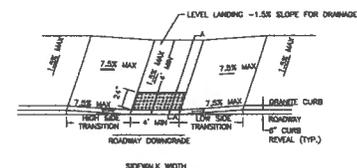
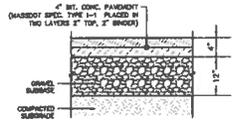
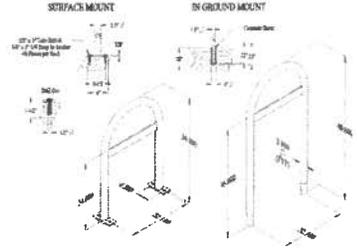
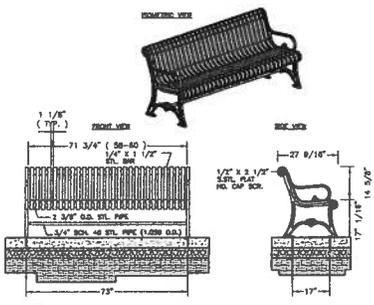
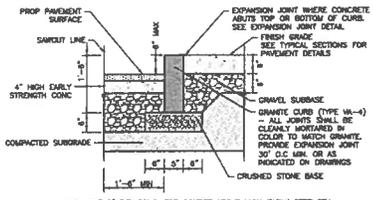
NO	BY	DATE	DESCRIPTION
1	HG	10-21-15	REV. BUILDING
2	HG	10-28-15	REV. SITE PLAN



SITE PLAN

DETAIL SHEET 2

DATE	09-09-2015
PROJECT NUMBER	15095
DESIGNED BY	CHL
DRAWN BY	HEG/CHL
CHECKED BY	KLE



NOTES:
 1. CONCRETE SIDEWALK DETAIL AND NOTES APPLY TO SIDEWALK WITHIN THE RIGHT-OF-WAY.
 2. CONCRETE SHALL BE 4,000 PSI.
 3. SIDEWALKS ARE TO BE FINISH WITH 3/8 INCH TROWEL JOINTS.

Staff Comments of Revised Plans

Updated Nov 30



DRB Memorandum

Project: 110 Grill Restaurant
Project Location: 252-256 Main Street, Frontage of K-mart Lot
Memorandum Date: 11-19-15

Drawings Reviewed:

Site Plan for 110 Grill Restaurant – Permit Package

Site Plan C2

Revised Dates: 10-21-15, 10-28-15

Street Perspective R1

Date: 11-02-15

Street Perspective R2

Date: 11-02-15

Floor Plan A1

Date: 11-02-15

Building Elevations East and South A2

Date: 11-02-15

Building Elevations West and North A3

Date: 11-02-15

Proponent Representatives:

Kevin Ericson, Robert and Michele Walker (Ryan Development) Not Present

DRB Members:

Holly Ben-Joseph (HBJ), Kim Montella (KM), Michael Dube (MD)

Date of First Review of Project: 10-07-15

Date of DRB Review: 11-18-15

The DRB met on November 18, 2015 to review the revised drawings submitted to the Town. The DRB in general had a favorable opinion of the revised drawings and appreciates the proponent adjusting the drawings according to the DRB suggestions. The DRB has the following comments on the revised drawings. These comments refer back to the comments in the 10-20-15 Memo:

Site Comments:

1. The proponent has not sited the building parallel to Main Street as recommend by the DRB. If this is not possible due to lease lines, the DRB suggests it is possible to stay within the lease lines and have the front of the building parallel to Main Street. This would improve its relationship to the street and surrounding buildings.
2. The outdoor eating area as revised is parallel to the street but is does not seem enlarged as recommended by the DRB recommendation.
3. The building entrance and pedestrian space outside of the door are appropriate.
4. The sidewalk along the south side has been narrowed to 5 feet from 6 feet contrary to the DRB's recommendation to widen the walk. The DRB recommends widening this walk.
5. The sidewalk entrance from Main Street has been widened and aligned with the walk along the building as the DRB suggested.
6. Bike racks have been provided in the plaza. The DRB supports the bike racks but has concerns about the location across the entry drive from the restaurant.

7. No change has been made regarding vehicular entrances. The DRB recommends combining the two entrances into the lot into one drive in a central location.
8. The landscape plan has not been revised, and no plantings have been added to screen the north wall as suggested. The neighboring lot has trees along this border which will partially screen; the addition of shrubs on the 110 Grill lot in this location is recommended. The remainder of the plans seems appropriate for the space and use.
9. The outdoor eating edge has been revised to align with Main Street, the DRB supports this change.
10. The DRB has concerns about the proposed hardscape plaza; we believe this is a plaza bound to fail and is a place that would not be an attractive feature along Main Street, and would not be an attractive place for people to sit. The plaza design does not work for the following reasons: the shape is too narrow and long, (was a planting island previously), it has no protection from the surrounding busy street, driveways and parking spaces, it has no plantings to define or shade the space, and it does not connect with any other building or use, it essentially is still a "parking lot island." The DRB does not support this addition to the plan and recommends the Proponent request a waiver on the by-law.

Building Comments:

1. The DRB appreciates the changes in the roof line from the vertical parapet to a sloping roofline.
2. In reviewing the revised drawings showing the 110 Grill signage pulled out to be parallel to Main Street as suggested by the DRB to make the building seem aligned with Main Street, we do not think that this solution fulfills the goal of making the building seem parallel to Main Street, and recommend returning to the original proposal (if the proponent prefers this). The DRB suggests the architect align the front face of the building with Main Street as mentioned in a previous comment.
3. The DRB supports the revisions to exterior façade materials.
4. The DRB continues to recommend providing a canopy of some sort at the outdoor patio to provide semi-protected outdoor dining.

New Comments:

1. The DRB is supportive of the additional two windows, one at the rear of the building (west elevation), one on the corner of the building at Main Street (north elevation).
2. The west façade (facing the K-mart parking lot) has a long expanse of board and batten siding. This could be improved with some detailing or with another panel of Ipe wood to make the back wall more interesting. Many people walk to the restaurants in the area through the k-mart parking lot and this façade is visually important.
3. It is difficult to tell if there is a change in plane where the two siding types meet. The DRB recommends where the materials change, there should also be a change in plane to make shadow lines which will give the building more interest.

Respectfully Submitted,

Design Review Board



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 929-6630
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Engineering Department

INTERDEPARTMENTAL COMMUNICATION

To: Planning Department

Date: 11/17/2015

From: Engineering Department

Subject: Site Plan Special Permit – 110 Grill – 252-256 Main St – SPSP #09/11/15-457 – 2nd & 3rd revisions

We have reviewed the application for the above mentioned special permit and the site plan for 252-256 Main Street titled "Site Plan for 110 Grill Restaurant 256 Main Street (Route 27) Acton, MA" dated September 9, 2015 and a revision date of October 28, 2015 and have the following comments:

Sewer

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

2. A sewer connection permit will be required from our office. The sewer connection will require a right-of-way access permit for work within Main St which will be available between March 15th and November 15th.
3. 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.

4. The grease trap is located beneath the drainage swale which is sized to infiltrate the 100-year storm. The grease trap may be located below the seasonal high groundwater level. If so, the applicant should check the buoyancy of the grease trap. A copy of the buoyancy calculations should be made available to our department and Health.

Traffic

5. A traffic study is required for any use that generates 30 additional trips per peak hour or an average of 400 additional trips per weekday. The applicant provided a traffic memo which states that the change in use from a 94 seat McDonald's to the proposed 110 Grill will result in 6 fewer vehicle trips in the morning peak hour, 9 additional trips in the evening peak hour and 676 fewer trips during the average weekday.

Whether a traffic study would be required depends on what the Board considers "existing traffic conditions". Existing conditions today reflect no vehicle trips since the McDonald's is abandoned. The proposed 110 Grill will increase vehicle trips by 113 vehicles in the morning peak hour, 98 in the evening peak hour and 1160 during the average weekday if compared to no vehicle trips that exist today.

6. The applicant is not proposing any changes to the curb cut on Main St, which works for an SU-30 vehicle, however we will defer comment on fire accessibility to the Fire Department
7. The property has an existing sidewalk along its frontage however, being in the Kelly's Corner District, the Board of Selectmen can require on and off-site sidewalks, walkways, bikeways and crosswalks consistent with the planning objectives set forth in the Kelly's Corner Plan. The Town, through the Planning Department, has recently completed a conceptual infrastructure improvement plan for Kelly's Corner. We'll defer any recommendations to the Planning Department.

Drainage

8. The applicant is proposing to add an additional 1,516 square feet of impervious area due to the proposed patio. They have designed a swale large enough to accommodate this area for the 100-year storm by completely infiltrating it. Though not required, the applicant should consider improving the stormwater quality elsewhere within the new pavement area. Such improvements can include providing gas trap hoods within the existing catch basins and directing roof runoff to underground detention to increase groundwater recharge. Such improvements would comply with the spirit of section 10.4.6 of the zoning bylaw.

Miscellaneous

9. The horizontal datum should be NGVD 1929. The site plans should state which datum the elevations shown are at and if it's not NGVD 1929, provide a conversion factor for the datum shown to the correct datum.

Privilege Fee Calculation

Sewer Betterment Rates and Info:

- \$12,311.52 per SBU (set by Board of Selectmen in 2005)
- 1 SBU = 300 gallons per day (gpd)
- 1 seat = 35 gpd (Title 5 requirement)

Former McDonald's Capacity

- McDonald's assessed 10.98 SBU
- 10.98 SBU x 300 gpd = 3,294 gpd
- 3,294 gpd / 35 gpd/seats = 94.11 seats

Proposed 110 Grill Capacity

Interior Seats – 189 total

- 189 seats – 94.11 = 94.89 seat increase from former McDonald's
- 94.89 seats x 35 gpd = 3,321.15 gpd
- 3,321.15 gpd / 300 gpd/SBU = 11.0705 SBU
- 11.0705 SBU x \$12,311.52 per SBU = \$136,294.68 Privilege Fee

Seasonal Seats – 51 total

- 51 seats x 35 gpd = 1,785 gpd
- 1,785 gpd / 300 gpd/SBU = 5.95 SBU
- 5.95 SBU x \$12,311.52 per SBU = \$73,253.54 Privilege Fee
Reduction assuming 4 months of use
- \$73,253.54 x (4/12) = \$24,417.85



Planning Department

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 929-6631
Fax (978) 929-6340
planning@acton-ma.gov

MEMORANDUM

To: Board of Selectmen **Date:** Revised November 30, 2015

From: Kristen Guichard, AICP, Assistant Town Planner *KAG*

Subject: Site Plan and Use Special Permit Application #9/11/15 – 457
Review of Revised Plans and Information Submitted on 11/05/15 and 11/25/15

Location: 252-256 Main Street
Map/Parcel: F3-116, F2-129-1 and F3-139
Applicant: Ryan Development LLC
Owner: Stop and Shop Supermarket Company LLC
Engineer: Katie Enright, PE - Howard Stein Hudson
Previous Site Plans: #01/02/73-0055: Construct New McDonald's Restaurant
#01/30/75-0096: Construct General Retail Use Building
#03/13/81-0204: Construct McDonald land Park
#02/09/82-0215: Construct Playland Addition to Existing McDonald's Rest.
#11/07/94-0348: Construct 800 ft² Addition to Existing McDonald's

Previous BOA Hearings: #75-19: Petition for Review – Denied
#98-14: Variance for Signage – Denied
#80-6: Variance to Construct New Entrance/Vestibule

Zoning: Kelley's Corner (KC)
Groundwater Protection Dist. Zone 4

Lot Area & Developable
Site Area (same): +/- 278,349 square feet (6.3 acres) *according to assessor's data*
Proposed Net Floor Area: +/- 6,020 square feet
Proposed Floor Area
Ratio (FAR): 0.255 (Includes existing Kmart building)
Proposed Uses: 240 Seat Restaurant (189 indoor and 51 outdoor)
Hearing Date: 11/2/15
Continued to: 12/07/15
Decision Due: 1/31/16

Below are the Planning Department comments based on the revised plans presented at the Board's 11/02/15 meeting and submitted to the Planning Department on 11/05/15 and additional information emailed on 11/25/15. These comments are noted in red and reflect the changes made to date. As stated at the public hearing, the record owner's knowledge and consent to the application presented is a requirement within the Site Plan Special Permit Rules and Regulations. The revised plans propose significant changes outside the delineated lease area and within a location of a newly

erected freestanding sign for the Kmart business (also a tenant at the site). On November 25th the Planning Department received a letter of acknowledgment from the property owner consenting to the modified plans revised on 10/28/15 although there is no acknowledgement of the Kmart sign.

Overview

The site in review is located off Main Street in the Kelley's Corner (KC) Zoning District. This site is typically referred to as the "Kmart property". The Site is comprised of three parcels in the same ownership; for zoning purposes they merge into one lot. The site is deemed pre-existing non-conforming due to its non-compliance with Section 5.6 of the Zoning Bylaw for sites exceeding 0.20 FAR in the KC Zoning District. The Applicant proposes to demolish the existing vacant McDonald's building¹ and to construct a new 110 Grille Restaurant with 240 seats. New building construction on the site must comply with Section 5.6 as it applies to lots exceeding 0.20 FAR.

The Applicant also proposes modifications to the existing parking lot and the northerly access drive on Main Street. ZBL S. 10.4.6 charges the Board of Selectmen as Site Plan Special Permit granting authority to require any reconstruction as well as improvements to the site to comply with the currently applicable standards of the Bylaw to the extent practicable. Therefore, our review of the site plan only takes into account areas of the Site that are being reconstructed, modified, or improved.

Compliance with Kelley's Corner Zoning (ZBL Section 5.6)

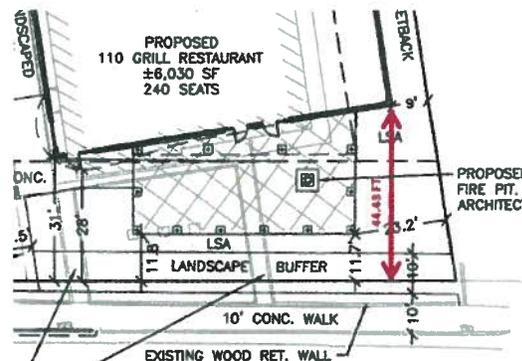
1. There is an existing +/- 6 ft. sidewalk along the Site's frontage of Main Street. ZBL S. 5.6.3.1 requires a 10 ft. wide sidewalk with a 10ft. wide landscape buffer be provided. The Applicant should provide a 10 ft. wide sidewalk along the Main Street frontage for a distance equal to the length of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

The applicant has addressed this requirement but should discuss plans with the Engineering Department as the entire proposed sidewalk is within the Town's right of way.

2. The following is a review of the building design features that are not in compliance with subsections of ZBL S. 5.6.3.4:
 - (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."*

Lot frontage is a defined term in the ZBL. The total lot frontage along Main Street is 340 ft.; 60% of the lot frontage would require 204 ft. of the frontage to be occupied by buildings or a pedestrian plaza; 50% of the lot frontage would require 170ft. of the frontage to be occupied by buildings or a pedestrian plaza. The proposed building only occupies 86 ft. of the frontage and is not entirely located within 40 ft. of the front property line – even if the Board determines a 50% reduction is consistent with Section 5.6.1 the current building and site design would need to be significantly modified to comply or include a pedestrian plaza for the remaining area. The ZBL does not grant the Board the authority to make any further reductions. The intent of the 'Special Provisions for the Kelley's Corner District' is stated under ZBL S. 5.6.1. This particular design requirement was established to provide a street edge, defined by buildings or a pedestrian plaza that is conducive to pedestrian uses, fosters a comfortable pedestrian environment and to encourage buildings with a pedestrian oriented scale and design.

1. Although the applicant has added a 2,238 square foot hardscaped pedestrian plaza to occupy an additional 121 feet of the lot frontage, it does not comply with the standards set forth in subsection 5.6.3.2 of the ZBL and should be modified:
 - a) Pedestrian plazas shall be located in front of the building or on the side of the building. The pedestrian plaza is currently located as an island; the pedestrian plaza is surrounded by two access drives and a parking lot. As stated at the public hearing, the pedestrian plaza should be relocated so that it is on the side of the building. Revised plans should also show changes to parking calculations.
 - d) Shade trees and ornamental trees and other landscaping shall be provided to create a separation between pedestrian and vehicular traffic, to highlight buildings and pedestrian spaces, to provide shelter from the sun, to minimize glare for drivers, to reduce noise, and to mitigate fumes. There is no landscaping shown in the pedestrian plaza. Landscaping should be added in compliance with this section and subsection 'e'.
2. The pedestrian plaza is proposed in the same location as a newly permitted and erected freestanding Kmart sign. ZBL S. 7.8.3 requires the freestanding sign to include a 195 square foot landscaped area around the base. The pedestrian plaza should be modified so that it is separate from and does not interfere with the freestanding sign and its required landscape. The plans should be modified to address this issue.
3. The proposed building is not entirely located within 40 ft. of the front property line. This has not been addressed. The northeasterly side of the building is approximately +/- 44 feet from the property line. This portion of the building should be moved forward to comply. (see below)



- (l) 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.

The plans have been modified; the front façade surface has 28% coverage by windows.

- (m) Highly reflective mirror windows are not allowed on building fronts. The Applicant should verify the window type.

A note has been added to the plans that the glass is non-reflective.

- (n) *“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.”

The proposed building design does not comply with this requirement. The entire building must comply with the 9/12 pitch requirement or the building should be designed with two stories.

The plans have been modified to comply by changing the flat 1-story roof to a 9/12 pitch. The architect has indicated in their letter dated 11/23/15 that the tower has a “two-story nature” – The Applicant should confirm if this portion of the building is two-stories or just designed to look like two stories.

- (o) *“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.”*

The vertical board and batton siding and T&G wood siding is not continued to the northerly side of the building (facing Verizon) and will be visible from Main Street. The same pattern should be used continuously around this side of the building by using T&G wood on the portion with the higher elevation and vertical board and batton siding along the lower portion.

The plans have been modified to comply.

3. The minimum front yard setback in the Kelley’s Corner Zoning District is 30 feet. A fire pit is shown as a permanent structure within the 30-foot setback and should be modified to comply.

Parking Lot Modifications (ZBL Section 6)

4. Bicycle parking is not shown on the plan and is required under ZBL S. 6.3.7.

Bicycle racks must be located as close as possible to the main building. They shall be principally part of and accessible from the vehicle parking lot or facility rather than part of the sidewalk and walkway system. The revised plans show bicycle parking located within the pedestrian plaza. Pedestrian Plazas are to be used exclusively by pedestrians. The bicycle parking should be relocated so that it complies with the ZBL; as close as possible to the building and a location that is accessible from the vehicular parking and not part of the walkway system.

5. 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.

This has not been addressed. As noted above, ZBL S. 10.4.6 charges the Board of Selectmen as Site Plan Special Permit granting authority to require any reconstruction as well as improvements to the site to comply with the current applicable standards of the Bylaw to the extent practicable. ZBL Section 8.4⁽³⁾ does not apply; the applicant is proposing to make improvements to the site by relocating and realigning the parking spaces in this location and thus should comply with the current bylaws.

6. 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:

“ACCESS Driveways – Each LOT may have one ACCESS driveway through its FRONTAGE which shall be 24 feet wide, unless, in the opinion of the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Zoning Enforcement Officer (for other parking areas), a wider and/or greater number of ACCESS driveways is necessary to provide adequate area for safe vehicular turning movements and circulation. An ACCESS driveway for one-way traffic only may be a minimum of 14 feet wide. There shall be no more than one additional ACCESS driveway for each 200 feet of FRONTAGE and all such additional ACCESS driveway(s) shall be at least 200 feet apart on the LOT measured from the centerline of each ACCESS driveway.”

The total frontage on Main Street is 340ft. Therefore, the Planning Department strongly recommends closing the *northerly* access drive on Main Street. Closing the northerly access drive will reduce turning movement conflicts on Main Street in close proximity to the heavily traveled signalized Main Street and Mass. Ave. intersection. Both businesses on the site would continue to be sufficiently served by the southerly access drive off Main Street and the access drive off Mass. Ave.

This has not been addressed. As noted above, ZBL S. 10.4.6 charges the Board of Selectmen as Site Plan Special Permit granting authority to require any reconstruction as well as improvements to the site to comply with the currently applicable standards of the Bylaw to the extent practicable. Under ZBL, s. 6.7.3, the standards with respect to the number and separation of access driveways are (1) not more than one driveway per lot; (2) under site plan special permit the Board of Selectmen may grant additional access driveways for each 200 feet of frontage but each driveway must be 200 feet apart from the others. The existing driveways are +/-150 feet apart, less than the minimum required 200 feet. And in any case, the 340 ft. of Main Street frontage entitle the lot to only one driveway. As in par. 4 above, ZBL Section 8.4 does not apply where the applicant is proposing to make major site modifications as shown on the plan. The Planning Department maintains its recommendation that the Board of Selectmen require pursuant to ZBL s. 10.4.6 that the site be brought into compliance by removing the north access drive off Main Street.

7. 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.

The plan has been modified to comply in this location.

Although the location above has been modified to comply, the 10-foot wide perimeter landscape buffer has been removed and a pedestrian plaza has been placed next to the parking lot cells. The Applicant should amend the plans by adding a 10-foot wide perimeter landscape buffer to boarder the parking lot cells. A pedestrian plaza cannot count towards the required 10-foot wide perimeter landscape buffer. Parking calculations should be revised to show changes.

Restaurant Use

8. The proposed restaurant use is allowed in the KC Zoning District by Special Permit.
9. The plan shows 286 parking spaces on the site which meets the minimum parking space requirement of the Bylaw for the Kmart retail use and the proposed restaurant.

Recommendations

The Planning Department has identified significant defects in the plan's compliance with the ZBL as outlined above in #2(a), #2(n) and #5. This will require a complete redesign of the building, parking lot layout and access driveways. Other issues noted above must be brought into compliance with the ZBL. The purpose of the Kelley's Corner District is clearly stated under ZBL S. 5.6.1². The Planning Department recommends denial of the requested permits, or an extended public hearing continuation that allows for well thought out plan changes, departmental reviews, and new notifications to parties in interest.

The Board should also note comments and concerns submitted by the Acton Water Supply District, Engineering Department, Fire Department and Health Department.

Significant issues still remain that should be addressed and resolved before the close of the public hearing.

cc: Engineering Department
Health Department

¹⁾ The former McDonald's restaurant was permitted with 94 seats.

²⁾ 5.6.1 Purpose – In the Kelley's Corner District, the principal goal guiding the regulations set forth herein is to sustain and encourage a vital business center that provides needed goods, services, jobs and increased tax revenues in a manner that is compatible with Acton's historic development pattern and establishes pedestrian accessibility and circulation throughout the Kelley's Corner area. These regulations will provide clear guidance to those who would like to expand or locate businesses in the Kelley's Corner District. They will ensure that future development will help create the form, cohesion, order, and supporting infrastructure that will identify the Kelley's Corner District as an attractive, pleasant, and desirable center for business, shopping and other commercial and community activities.

Pedestrian access and circulation are favored in order to limit vehicular congestion and air pollution. Adjacent residential neighborhoods will be connected to the Kelley's Corner District via pedestrian ways but are otherwise separated with landscape buffers. In order to support the growth and vitality of the center, higher density developments are required to contribute to a fund for the construction of a centralized wastewater collection and treatment system serving the Kelley's Corner District and surrounding areas. The regulations are intended to implement the Kelley's Corner Plan as amended.

It is widely recognized that the mere provision of sidewalks and crosswalks will not encourage pedestrian use of a commercial area unless the layout and design of the sites and BUILDINGS are also conducive to pedestrian use. The leading design principles are therefore to provide convenient and efficient pedestrian access within the Kelley's Corner District and to surrounding neighborhoods and facilities, to provide a safe and comfortable pedestrian environment with walkways, pedestrian conveniences and amenities, and to encourage BUILDINGS with a pedestrian oriented scale and design.

³⁾ In the Applicant's response letter dated October 30, 2015 he argues that Section 8.4 of the Zoning Bylaw exempts the plan from having to comply with the current Zoning Bylaw parking requirements. Section 8.4 reads:

“Nonconforming Parking – This Bylaw shall not be deemed to prohibit the continued USE of any land or STRUCTURES that is nonconforming with respect to parking requirements.”

The intent of this section of the Bylaw is to allow pre-existing non-conforming parking that is **not** being modified. Where the Applicant proposes parking modifications, they must comply with the current applicable standards of the Bylaw per S. 10.4.6.



Water Supply District of Acton

693 MASSACHUSETTS AVENUE
P.O. BOX 953
ACTON, MASSACHUSETTS 01720

TELEPHONE (978) 263-9107

FAX (978) 264-0148

DATE: October 23, 2015

TO: Town of Acton Planning Dept.

FROM: Chris Allen, District Manager

RE: Comments on Site plan special permit application (SPSP 09/11/15-457) for 252-256 Main Street, 110 Grill

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.
2. All water mains, services, appurtenances and installation of such must 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.
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.
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.
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.
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.
8. All grass and plantings should be native and drought tolerant to reduce irrigation needs.

Respectfully submitted

Chris Allen
District Manager

Kim Gorman

From: Frank Ramsbottom
Sent: Friday, October 23, 2015 6:37 PM
To: Robert Hart
Cc: Kim Gorman; Building Department; Planning Department; Engineering Department; Patrick Futterer; Health Department; Natural Resources Department; Sidewalk Committee; Chris Allen; Design Review Board; Economic Development Committee; Transportation Advisory Committee; Lisa Tomy!
Subject: Re: 252-256 Main Street - Site Plan Special Permit Application - Comments

Hi Kim

I also have the same concerns mentioned by Deputy Hart. I discussed this with him and also wanted to add that It would be preferable to move the dumpster away form the building

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

Do you know if the applicants intended to ever have entertainment?

Regards

Frank Ramsbottom
Acton Building Commissioner

Sent from my iPhone

On Oct 23, 2015, at 12:47 PM, Robert Hart <rhart@acton-ma.gov> wrote:

Hello Kim,

After review of the plans I have a few concerns. 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. Further the site plan shall comply with 527 CMR 1.0 and NFPA 1141. 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.

Respectfully,

Robert Hart
Deputy Fire Chief

From: Kim Gorman
Sent: Thursday, October 22, 2015 4:01 PM
To: Building Department; Planning Department; Engineering Department; Patrick Futterer; Robert Hart; Health Department; Natural Resources Department; Sidewalk Committee; Chris Allen; Design Review Board; Economic Development Committee; Transportation Advisory Committee
Cc: Lisa Tomy!
Subject: RE: 252-256 Main Street - Site Plan Special Permit Application - Comments

Hello everyone,
if you have not commented yet, the application has sent revised plans.

I have placed them in a revised plans folder within the same link below.

Thank you!
Kim

From: Kim Gorman

Sent: Friday, September 25, 2015 1:43 PM

To: Building Department; Planning Department; Engineering Department; Patrick Futterer; Robert Hart; Health Department; Natural Resources Department; Sidewalk Committee; Chris Allen; Design Review Board; Economic Development Committee; Transportation Advisory Committee

Cc: Lisa Tomyl

Subject: 252-256 Main Street - Site Plan Special Permit Application - Comments

Importance: High

Good afternoon,

I am in receipt of an application for a Site Plan Special Permit #SPSP 09/11/15-457 for 252-256 Main Street.

The location of the documents are within docushare, here is the link - <http://doc.acton-ma.gov/dsweb/View/Collection-7008>

The applicant is proposing development of a 6,020 +/- s.f. restaurant to be located on a portion of the property know as 252-256 Main Street (formerly McDonald's restaurant), to raise the existing structure and to construct a new 110 Grill Restaurant containing 189 indoor seats and 51 seasonal patio seats.

Please email your questions or comments if any to the Planning Department – planning@acton-ma.gov no later than Friday, October 23, 2015.

Thank you!

Sincerely,

Kim Gorman
Secretary
Acton Planning Department
472 Main Street
Acton, MA 01720
kgorman@acton-ma.gov
978-929-6631

Kim Gorman

From: Robert Hart
Sent: Friday, October 23, 2015 12:48 PM
To: Kim Gorman; Building Department; Planning Department; Engineering Department; Patrick Futterer; Health Department; Natural Resources Department; Sidewalk Committee; Chris Allen; Design Review Board; Economic Development Committee; Transportation Advisory Committee
Cc: Lisa Tomy!<mailto:lisa.tomy@actonma.gov>
Subject: RE: 252-256 Main Street - Site Plan Special Permit Application - Comments

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Robert Hart
Deputy Fire Chief

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Subject: 252-256 Main Street - Site Plan Special Permit Application - Comments
Importance: High

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Please email your questions or comments if any to the Planning Department – planning@acton-ma.gov no later than Friday, October 23, 2015.

Thank you!

Sincerely,

Kim Gorman
Secretary
Acton Planning Department
472 Main Street
Acton, MA 01720
kgorman@acton-ma.gov
978-929-6631

Kim Gorman

From: Sheryl Ball
Sent: Thursday, October 08, 2015 1:12 PM
To: Planning Department
Cc: Health Department
Subject: Site Plan Special Permit #SPSP 09/11/15-457 for 252-256 Main Street.

The Health Department has the following concerns:

1. A plan review of the proposed restaurant will be required by the Health Department prior to construction along with application and fee.
2. The external grease trap must be upgraded to accommodate the increase in seats – 750 gallons provided; 3600 gallons required
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.

Sheryl Ball
Public Health Inspector
Town of Acton
472 Main Street
Acton, MA 01720
978-929-6632
fax 978-929-6340

RYAN DEVELOPMENT LLC

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."*

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."*

Response: 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 or 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.

Engineering Letter:

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.

Fire Department Letter:

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