

HINGHAM PLANNING BOARD MINUTES

March 7, 2022 @ 7:00 PM

REMOTE MEETING

Planning Board Members Present Remotely: Kevin Ellis, Judith Sneath, Gordon Carr, Rita DaSilva

Also Present: Emily Wentworth, Community Planning Director; Susan Murphy, Esq., Special Real Estate Counsel

Members Absent: Gary Tondorf-Dick

At 7:01 p.m. Chair Ellis called the Planning Board meeting to order and stated the following:

“This meeting is being held remotely as an alternate means of public access pursuant to Chapter 20 of the Acts of 2021 temporarily amending certain provisions of the Open Meeting Law. You are hereby advised that this meeting and all communications during this meeting may be recorded by the Town of Hingham in accordance with the Open Meeting Law. If any participant wishes to record this meeting, please notify the chair at the start of the meeting in accordance with M.G.L. c. 30A, § 20(f) so that the chair may inform all other participants of said recording.”

Chair Ellis stated that Member Tondorf-Dick would be unable to attend the meeting.

Hearing(s)

Chair Ellis stated the first matter would be a Site Plan Approval in Association with a Special Permit A2 and Special Permit A3/Parking Determination for **Cayton 140-150 North Street, LLC** which had been continued from February 14, 2022.

Ms. Carol Draheim gave an overview of the request to extend outdoor restaurant seating beyond the COVID-19 program and presented new materials and plan.

Chair Ellis asked for Member comments.

There was discussion regarding access by tree wells to meet ADA requirements, potential reconfiguration of tables to meet certain requirements, bollards, Shared Streets grant application and alcohol service licensing.

Chair Ellis stated the Board had received numerous letters of support of the project and asked for public comment.

Ms. Lynn Barclay, 11 Cottage Street, thanked Ms. Draheim and stated she fully supported the project.

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the meeting Chair Ellis proposed the following Special Permit A3 findings:

a. The parking is sufficient in quantity to meet the needs of the proposed project:

There appears to be sufficient public parking available offsite to provide for the expansion of the restaurant seating onto the North Street sidewalk. In addition to onstreet parking spaces along North Street and the surrounding roads, there are nearby offstreet public parking lots that include 11 spaces within the small lot on the opposite side of Central Street and 63 spaces within the Merchant's Lot at 25 Main Street/22 & 24R Central Street. As a condition of this decision, the Board will review parking impacts associated with the outdoor dining area.

b. Pedestrian access and circulation has been provided for:

As conditioned by this approval, customer and employee circulation through the outdoor dining area and pedestrian access through the remaining portion of North Street will be subject to period inspection to ensure compliance with accessibility requirements.

c. New driveways have been designed to maximize sightline distances to the greatest extent possible:

No new driveways are proposed.

d. It is impractical to meet these standards and that a waiver of these regulations will not result in or worsen parking and traffic problems on-site or on the surrounding streets, or adversely affect the value of abutting lands and buildings:

The subject property is occupied in its entirety by the building footprint, so there is no opportunity to add parking onsite. The applicant has demonstrated that in the last 2 years of Temporary Outdoor Table Service, there have been no negative effects resulting from the outdoor dining area.

e. The granting of relief is consistent with the intent of this By-Law and will not increase the likelihood of accident or impair access and circulation.

Relief supports a use allowed by special permit in the Business A District. Numerous accounts by patrons of the Town and Square Café, that outdoor table seating on the premises has significantly preserved and enhanced the Downtown as a mixed-use pedestrian-oriented district and is consistent with the purpose and objectives of the Overlay District. Use of the existing sidewalk will not increase the likelihood of vehicular and/or pedestrian conflicts.

And moved to GRANT the application of Luke and Carol Draheim on behalf of Cayton 140-150 North Street, LLC for a Waiver of parking requirements under §§ V-A and I-J of the Zoning By-Law, to allow Square Cafe restaurant to continue having outdoor seating permanently on the sidewalk located along the front the restaurant at 150 North Street in the Business A and Downtown Hingham Overlay Districts, subject to the following condition:

1. The Applicant shall submit a request to the Board, following one year of operation of the outdoor dining area, to review project impacts on parking availability in Hingham Square and pedestrian access along the remaining sidewalk. With the request, the Applicant shall include any reports of parking or pedestrian complaints, non-compliance, and/or such other issues related to the outdoor dining area. The review shall take place during a noticed public meeting and the Board may modify the permit to address any identified issues.

Second: Rita DaSilva

In Favor: Judith Sneath, Gordon Carr, Rita DaSilva, Kevin Ellis

Opposed: None

Chair Ellis proposed the following Site Plan Review findings:

- a. Protection of abutting properties against detrimental uses by provision for surface water drainage, fire hydrant locations, sound and site buffers, and preservation of views, light and air, and protection of abutting properties from negative impacts from artificial outdoor site lighting.**
No changes are proposed to drainage, fire hydrant locations, sound and site buffers, preservation of views, light and air, or protection of abutting properties from negative impacts from artificial outdoor site lighting.
- b. Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets; the location of driveway openings in relation to traffic or to adjacent streets, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections; sufficiency of access for service, utility and emergency vehicles.**
There is no onsite parking or traffic.
- c. Adequacy of the arrangement of parking, loading spaces and traffic patterns in relation to the proposed uses of the premises; compliance with the off-street parking requirements of this By-Law.**
There is no onsite parking or traffic and parking requirements have been waived pursuant to § III-G, 7.c. No changes to loading spaces are proposed.
- d. Adequacy of open space and setbacks, including adequacy of landscaping of such areas.**
There is no open space or landscaping onsite. The proposed outdoor seating is on the Town-owned sidewalk and has been given special permission by the Select Board for use of this space.
- e. Adequacy of the methods of disposal of refuse and other wastes during construction and resulting from the uses permitted on the site including, but not limited to, discarded building materials, concrete truck wash out, chemicals, litter**

and sanitary wastes; provided, that discharge of refuse or other wastes into the municipal stormwater system shall be expressly prohibited;

No construction is proposed for this project.

- f. Prevention or mitigation of adverse impacts on the Town's resources, including, without limitation, water supply, wastewater facilities, energy and public works and public safety resources.**

No changes to the prevention or mitigation of adverse impacts on the Town's resources are proposed.

- g. Assurances of positive stormwater drainage and snow-melt run-off from buildings, driveways and from all parking and loading areas on the site, and prevention of erosion, sedimentation and stormwater pollution and management problems through site design and erosion controls in accordance with the most current versions of the Massachusetts Department of Environmental Protection's Stormwater Management Policy and Standards including the Massachusetts Stormwater Handbook, the Massachusetts Erosion and Sediment Control Guidelines and, if applicable, additional requirements under the Town of Hingham MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system.**

No changes to drainage systems or patterns are proposed.

- h. Assurance that appropriate Best Management Practices have been incorporated to minimize the amount of disturbed areas and protect natural resources, stabilize sites when projects are complete or operations have temporarily ceased, protect slopes on the construction site, protect storm drain inlets and armor all newly constructed outlets, install perimeter controls at the site, stabilize construction site entrances and exits to prevent off-site tracking of material, and to provide for regular inspection of stormwater controls at consistent intervals.**

No disturbance to land or natural resources are proposed.

- i. Protection of natural and historic features including minimizing: the volume of cut and fill, the number of removed trees of 6 inches caliper or larger, the removal of stone walls, and the obstruction of scenic views from publicly accessible locations.**

No changes to natural or historic features are proposed.

- j. Minimizing unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on or approved for the site.**

No changes to the existing structures are proposed.

And moved to GRANT the application of Cayton 140-150 North Street, LLC for Site Plan Approval in association with a Special Permit A2 under §§ I-G and I-I of the Zoning By-Law to allow the Square Cafe restaurant to operate outdoor dining on the sidewalk located along the front

the restaurant at 150 North Street in the Business A and Downtown Hingham Overlay Districts, subject to the following conditions:

1. Prior to starting operation of the outdoor dining area, the applicant shall have obtained a license from the Town for use of the public sidewalk. Operation of the outdoor dining area may only continue so long as such license remains in full force and effect.
2. After expiration of the current Outdoor Table Service Permit on April 1, 2022 and prior to operation of the outdoor dining area, the Applicant shall submit a revised plan for review and approval by the Community Planning Director and the Building Commissioner to demonstrate that a minimum of 3' is provided between tables and stanchions and that a minimum of 4' remains beyond the stanchions for an unobstructed public sidewalk.
3. The Applicant shall be responsible for regular cleaning of trash and food in the outdoor dining area and shall not allow trash, food or other nutrients to accumulate or be deposited (intentionally or unintentionally) into storm drains.
4. The establishment may be subject to periodic inspection for compliance with this Approval.

Second: Rita DaSilva

In Favor: Judith Sneath, Gordon Carr, Rita DaSilva, Kevin Ellis

Opposed: None

Chair Ellis stated that the next matter was a Site Plan Review and Special Permit A3 Modification for **185-193 Lincoln Street LLC**. Chair Ellis stated it was the second substantive hearing on this matter.

Mr. Scott Golding, Esq. represented the applicant. Attorney Golding gave an overview of the project, stated they were seeking to flex 54 seats into a designated area outdoors that holds eight seats and discussed support for the program.

Chair Ellis asked for Member comments.

There was discussion regarding potential conditions.

Attorney Golding discussed previous traffic review, historical parking demand and use and circulation discussions.

Members discussed seasonal reduction in spaces, the potential for moving the entire restaurant outdoors under proposed program given 54 seats to be located indoors and 48 outdoors, the rationale for having full number of seats both indoors and outdoors, barriers and signage, maximum setting of tables and enforcement concerns.

Mr. Brian McLaughlin and Mr. Douglas McGregor, property owners, discussed reasoning for the number of seats requested outdoors and their openness to a lookback to retain outdoor seating privilege and discussed how the seating would be managed.

There was discussion regarding a lookback on compliance.

Chair Ellis asked for public comment. There was none.

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the meeting Chair Ellis proposed the following findings:

- a. The parking is sufficient in quantity to meet the needs of the proposed project;**
Based upon the 2021 seasonal operation of the outdoor area pursuant to the OTS approval, there is ample shared parking on the premises due to the varying hourly peaks for the businesses on-site. The 78 “in-season” parking spaces are sufficient in quantity to meet the needs of the existing mixture of diverse and non-coincident uses at the properties as outlined in the Notice of Decision, Special Permit A3, dated August 13, 2020 and will not adversely affect the businesses on-site or the surrounding streets.
- b. Pedestrian access and circulation has been provided for;**
Pedestrian access and circulation is unchanged as a result of this project.
- c. New driveways have been designed to maximize sightline distances to the greatest extent possible;**
No changes to entrances or sight distances are proposed.
- d. It is impractical to meet these standards and that a waiver of these regulations will not result in or worsen parking and traffic problems on-site or on the surrounding streets, or adversely affect the value of abutting lands and buildings; and**
The seasonal flex of seating into the parking spaces adjacent to the west of Localés Taco will not result in or worsen parking or traffic on-site or the surrounding streets.
- e. The granting of relief is consistent with the intent of this By-Law and will not increase the likelihood of accident or impair access and circulation.**
The proposed seasonal flex of parking will not increase the likelihood of accident or impair access and circulation.

And moved to GRANT the application of 185-193 Lincoln Street, LLC and 6 Crow Point Realty, LLC for Modification of a Special Permit A3 Parking Determination, dated August 13, 2020, to allow an existing restaurant tenant (Localés Taco) to flex existing interior restaurant seats to a designated outdoor dining area, consisting of eight parking spaces adjacent to the restaurant located at 6 Crow Point Lane in Business District B, subject to the following conditions:

1. All ongoing conditions set forth in the Planning Board Special Permit A3 decision

of August 13, 2020 shall remain in full force and effect.

2. The Applicant shall submit a request to the Board, following one year of operation of the outdoor dining area or upon public safety reports of onstreet parking or queueing of vehicles at site or adjoining roads, to review project impacts on parking availability. With the request, the Applicant shall include any reports of parking or pedestrian complaints, non-compliance, and/or such other issues related to the indoor and outdoor dining area including summary data on usage of outdoor dining area. The review shall take place during a noticed public meeting and the Board may modify the permit to address any identified issues.
3. Special Permit will be limited to current restaurant and will expire in the event that Locales Taco is no longer operating at property.
4. Permit grants seasonal displacement of 8 parking spaces for outdoor dining, the restaurant use shall not exceed 54 seats overall nor 48 seats outdoors so as not to overburden available parking on property.
5. Flex interior seats shall be clearly identified as not in use when outdoor dining is in place.
6. Patrons waiting for tables shall not be seated at the outdoor dining tables.

Second: Gordon Carr

In Favor: Judith Sneath, Rita DaSilva, Gordon Carr, Kevin Ellis

Opposed: None

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the meeting Chair Ellis proposed the following findings:

- a. **Protection of abutting properties against detrimental uses by provision for surface water drainage, fire hydrant locations, sound and site buffers, and preservation of views, light and air, and protection of abutting properties from negative impacts from artificial outdoor site lighting.**

No changes are proposed to drainage, fire hydrant locations, sound and site buffers, or preservation of views, light and air. Additional artificial lighting in the form of overhead string lighting for the proposed outdoor seating area will be present on a seasonal basis and cause little to no impact on abutting properties.

- b. **Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets; the location of driveway openings in relation to traffic or to adjacent streets, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections; sufficiency of access for service, utility and emergency vehicles.**

No changes to vehicular and pedestrian movement, location of driveway openings, or access for service, utility and emergency vehicles are proposed.

- c. Adequacy of the arrangement of parking, loading spaces and traffic patterns in relation to the proposed uses of the premises; compliance with the off-street parking requirements of this By-Law.**

Based upon the 2021 seasonal operation of the outdoor area pursuant to the OTS approval, there is ample shared parking on the premises due to the varying hourly peaks for the businesses on-site. The 78 “in-season” parking spaces are sufficient in quantity to meet the needs of the existing mixture of diverse and non-coincident uses at the properties and will not adversely affect the businesses on-site or the surrounding streets.

- d. Adequacy of open space and setbacks, including adequacy of landscaping of such areas.**

No changes to open space, setbacks, or landscaping are proposed.

- e. Adequacy of the methods of disposal of refuse and other wastes during construction and resulting from the uses permitted on the site including, but not limited to, discarded building materials, concrete truck wash out, chemicals, litter and sanitary wastes; provided, that discharge of refuse or other wastes into the municipal stormwater system shall be expressly prohibited;**

No construction is proposed for this project.

- f. Prevention or mitigation of adverse impacts on the Town’s resources, including, without limitation, water supply, wastewater facilities, energy and public works and public safety resources.**

No changes to the prevention or mitigation of adverse impacts on the Town’s resources are proposed.

- g. Assurances of positive stormwater drainage and snow-melt run-off from buildings, driveways and from all parking and loading areas on the site, and prevention of erosion, sedimentation and stormwater pollution and management problems through site design and erosion controls in accordance with the most current versions of the Massachusetts Department of Environmental Protection’s Stormwater Management Policy and Standards including the Massachusetts Stormwater Handbook, the Massachusetts Erosion and Sediment Control Guidelines and, if applicable, additional requirements under the Town of Hingham MS4 Permit for projects that disturb more than one acre and discharge to the Town’s municipal stormwater system.**

No changes to drainage systems or patterns are proposed.

- h. Assurance that appropriate Best Management Practices have been incorporated to minimize the amount of disturbed areas and protect natural resources, stabilize sites when projects are complete or operations have temporarily ceased, protect slopes on the construction site, protect storm drain inlets and armor all newly constructed outlets, install perimeter controls at the site, stabilize construction site**

entrances and exits to prevent off-site tracking of material, and to provide for regular inspection of stormwater controls at consistent intervals.

No disturbance to land or natural resources are proposed.

- i. Protection of natural and historic features including minimizing: the volume of cut and fill, the number of removed trees of 6 inches caliper or larger, the removal of stone walls, and the obstruction of scenic views from publicly accessible locations.**

No changes to natural or historic features are proposed.

- j. Minimizing unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on or approved for the site.**

No changes to the existing structures are proposed. The proposed project is limited to 8 parking spaces.

And moved to GRANT the application of 185-193 Lincoln Street, LLC and 6 Crow Point Realty, LLC to waive certain submittal requirements and for Site Plan Approval, to allow an existing restaurant tenant (Localés Taco) to flex existing interior restaurant seats to a designated outdoor table service area, consisting of eight parking spaces adjacent to the restaurant located at 6 Crow Point Lane in Business District B, subject to the following conditions:

1. All ongoing conditions set forth in the Planning Board Site Plan Review decision of August 13, 2020 shall remain in full for and effect.
2. The Applicant shall be responsible for regular cleaning of trash and food in the outdoor dining area and shall not allow trash, food or other nutrients to accumulate or be deposited (intentionally or unintentionally) into storm drains.

Second: Rita DaSilva

In Favor: Judith Sneath, Gordon Carr, Rita DaSilva, Kevin Ellis

Opposed: None

Chair Ellis stated that the next items on the agenda were **Articles for the 2022 Town Meeting Warrant** and he opened the discussion regarding the **Special Permits and Site Plan Review Procedures and Tree Protection and Preservation articles.**

Ms. Wentworth and Attorney Murphy presented changes to and there was discussion regarding edits to the Zoning By-Law Sections I-F, Section II, Section III, the lapse provision, peer review and Section I-H. Ms. Wentworth stated there were a number of changes to Section I-I Site Plan Review and there was discussion regarding Exemptions, Section IV, Procedures, Member Tondorf-Dick's comments, digital submissions and submission requirements, Planning Board Rules and Regulations, notice, deadlines, joint hearings with Board of Zoning Appeals, conditions and recording of decisions with the Registry of Deeds, site plan review as a standalone permit, site plan review triggers/changes of occupancy, Section V, submittal requirements and organization and clarifications.

There was discussion regarding tree protection plans and submittal requirements, traffic circulation, tree yards and the tree protection and mitigation plan being a standalone plan versus being part of the landscape plan.

Members discussed Major Site Plan requirements including construction management plans, Section 6 proposed Design and Performance Standards edits, proposed Approval Criteria edits, proposed Conditions of Approval, flexibility of the Board to provide detailed findings where desired, Conditions of Approval including new language regarding Tree Protection Areas, use of term project versus development, waivers, minor modification, addition of Appeal provision, change to Section IV.b.6, Section VI, Definitions updates to add definitions from proposed Tree Preservation By-Law and the upcoming Advisory Committee meeting.

Chair Ellis moved to continue the hearing on the Special Permits and Site Plan Review Procedures and the Tree Protection and Preservation Articles for the 2022 Town Meeting Warrant to the March 14, 2022 meeting of the Planning Board at 7pm.

Second: Judith Sneath

In Favor: Gordon Carr, Rita DaSilva, Judith Sneath, Kevin Ellis.

Opposed: None

Chair Ellis suggested draft meeting minutes be discussed at the next meeting.

Chair Ellis moved to adjourn the meeting at 10:15pm.

Second: Judith Sneath

In Favor: Gordon Carr, Rita DaSilva, Judith Sneath, Kevin Elis

Opposed: None

Respectfully submitted,

Tracy L. Altrich
Administrative Assistant, Community Planning

Meeting Materials:

150 North Street:

1. *Application for Site Plan Approval in Association with a Special Permit A2, dated January 21, 2022*
2. *Plan, revised through June 7, 2020*
3. *Application for a Special Permit A-3, dated January 21, 2022*
4. *Extension and Amendment of Outdoor Table Service Approval, dated October 20, 2020*
5. *Previous Decisions*
6. *Public Support for Square Cafe Outdoor Table Service*
7. *Additional Public Support for Square Cafe Outdoor Table Service*
8. *Additional Public Support*
9. *Signed Continuation, dated February 15, 2022*

10. *La Petite Maison Letter of Support, dated February 15, 2022*
11. *Mattison Letter of Support, received February 22, 2022*
12. *Presentation, received March 4, 2022*

185-193 Lincoln Street & 6 Crow Point:

1. *J. Tocchio Letter to C. Falvey and K. Ellis, dated January 12, 2022*
2. *Application for Modification of Special Permit A3, dated January 12, 2022*
3. *Application for Site Plan Approval with Waivers, dated January 12, 2022*
4. *Form 2 - Application for a Zoning Hearing, dated January 12, 2022*
5. *Supplement to Applications, dated January 12, 2022*
6. *Seasonal Seating Plan, dated January 12, 2022*
7. *Seasonal Seating Plan, revised through February 3, 2022*
8. *Letters of Support from Abutting Businesses, dated February 3, 2022*
9. *Seasonal Seating Plan 2021*
10. *Exterior Seating Photos 2021*
11. *Continuation Request, dated February 7, 2022*
12. *Updated Seating Plan, received February 11, 2022*
13. *Continuation Request, dated February 11, 2022*
14. *Public Support for Outdoor Table Service*
15. *Additional Public Support*
16. *Signed Continuation and Extension, dated February 15, 2022*
17. *Mattison Letter of Support, received February 22, 2022*
18. *Special Permit A3 Decision, dated August 13, 2020*
19. *Site Plan Review Decision, dated August 13, 2020*
20. *Outdoor Table Service Select Board Approval, dated June 8, 2021*

Zoning Articles:

1. *2022 Draft Zoning By-Law Mark-Up, updated January 24, 2022*
2. *2022 Draft Zoning By-Law Mark-Up, updated February 26, 2022*
3. *2022 Draft Zoning Bylaw Mark-Up (Redline v. 1.24.22 draft), dated February 26, 2022*

Special Permit and Site Plan Review Procedures and Tree Protection and Preservation:

1. *Special Permits and Site Plan Review Procedures Article*
2. *Site Plan Review/Special Permit Presentation, dated November 29, 2021*
3. *Section I Excerpt from Draft Zoning Article - Clean Version, dated January 21, 2022*
4. *Tree Protection Article Annotated with Tree Preservation Measure incorporated into Site Plan Review*
5. *Special Permits and Site Plan Review Presentation, dated January 24, 2022*
6. *Special Permits and Site Plan Review Presentation, dated January 31, 2022*
7. *Special Permits and Site Plan Review Presentation, dated February 7, 2022*
8. *Special Permits and Site Plan Review Presentation, dated February 14, 2022*
9. *Public Comment Email from D. Pozdniakov to E. Wentworth, dated January 24, 2022*
10. *Letter from Building Commissioner to Planning Board, dated February 16, 2022*
- 2022 Draft Zoning By-Law Comments & Mark-Up from G. Tondorf-Dick, dated February 13, 2022