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PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
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PLANNING

**MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT
DECISION
Application No. 2023-02**

June 20, 2023

**Shallots Needham, Inc. dba Sweet Boba, Kakada Ly, President
1032 Great Plain Avenue**

Decision of the Planning Board (hereinafter referred to as the Board) on the petition of Shallots Needham, Inc. dba Sweet Boba, Kakada Ly, President, (hereinafter referred to as the Petitioner) for the property located at 1032 Great Plain Avenue, Needham, Massachusetts. Said property is shown on Needham Town Assessors Plan, No. 47 as Parcel 7 containing a total of 19,347 square feet in the Center Business Zoning District.

This Decision is in response to an application submitted to the Board on April 13, 2023, by the Petitioner for: (1) a Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) a Special Permit under Section 3.2.2 of the By-Law for an eat in/take out establishment accessory to a food retail operation in the Center Business District; (3) a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential use on a lot where such uses are not detrimental to each other and are in compliance with all other requirements of this By-Law; and (4) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements).

The requested Major Project Site Plan Review Special Permit would, if granted, permit the Petitioner to renovate approximately 870 square feet of first floor space for use as a retail bakery with an accessory eat in/take out counter and 6 seats.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairman, Adam Block, on Tuesday, May 16, 2023 at 7:40 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Natasha Espada and Artie Crocker were present throughout the proceedings. The record of the proceedings and the submissions upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

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

Exhibit 1 Properly executed application for a Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law, for a Special Permit under Section 3.2.2 of the By-Law for an

eat in/take out establishment accessory to a food retail operation in the Center Business District, for a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential use on a lot where such uses are not detrimental to each other and are in compliance with all other requirements of this By-Law, and, for a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), said application dated April 13, 2023.

- Exhibit 2** Letter from Kakada Ly, dated February 6, 2023.
- Exhibit 3** Plan set entitled “Sweet Boba, 1032 Great Plain Ave, Needham, MA, 02492,” prepared by Choi+Shine, consisting of 5 sheets: Sheet 1, Cover Sheet, dated January 12, 2023; Sheet 2, Sheet A001, entitled “Notes,” dated January 12, 2023; Sheet 3, Sheet A100, entitled “Existing Floor Plan,” dated January 12, 2023; Sheet 4, Sheet A200, entitled “Proposed Floor Plan,” dated January 12, 2023; and Sheet 5, Sheet LS100, entitled “Life Safety Plan,” dated January 12, 2023.
- Exhibit 4** Interdepartmental Communication (IDC) to the Board from Thomas Ryder, Town Engineer, dated May 10, 2023; IDC to the Board from Tara Gurge, Health Department, dated May 10, 2023; IDC to the Board from David Roche, Needham Building Commissioner, dated May 1, 2023.

Exhibits 1, 2 and 3 are referred to hereinafter as the Plan.

FINDING AND CONCLUSIONS

- 1.1 The premises is located at 1032 Great Plain Avenue within an existing building in the Center Business Zoning District. The property on which the building is located is identified on Town of Needham Assessor’s Map No. 47 as Parcel 7 containing a total of 19,347 square feet. The premises consists of approximately 870 square feet of first floor space.
- 1.2 The Petitioner seeks the zoning relief that is necessary to operate an eat in/take out establishment accessory to a food retail operation in the Center Business District in 870 square feet of first floor space. The Petitioner proposes one register and 6 seats. The primary use of the premises will be a food retail operation for the sale of bakery items, such as cookies, macaroons, muffins, brownies, croissants (60% of sales) and coffee, boba tea, smoothies and other drinks (30% of sales). As a subordinate and accessory use to the primary use, as described above, accessory sales of sandwiches and salads (5% of sales) and takeout food sales (5% of sales) will be provided. The Petitioner expects the sale of sandwiches and salads and takeout food sales will constitute no more than 10% of total sales.
- 1.3 The Petitioner proposes to operate Sweet Boba, 7 (seven) days a week. The proposed hours of operation are 6:00 a.m. – 10:00 p.m. on all 7 days. The Petitioner proposes to utilize the services of no more than 3 (three) employees at any one time, depending on demand.
- 1.4 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (number of parking spaces) Required Parking. Under the By-Law, the parking requirement for the proposed operation is 15 spaces based on the following computation: (a) 870 square feet of retail space at 1 space per 300 square feet equals 2.9 spaces = 3 spaces, (b) six seats at 1 space for every 3 seats =2 spaces, and (c) one

take-out station at 10 spaces for each station = 10 spaces, for a total of 15 parking spaces. Accordingly, a waiver of 15 parking spaces has been requested. No parking is provided on-site.

- 1.5 Pursuant to Section 5.1.1.3 of the By-Law no change or conversion of a use in a mixed use structure to a use which requires additional parking shall be permitted unless off-street parking is provided in accordance with Section 5.1.3 of the By-Law for the entire structure or a waiver is granted pursuant to the provisions of Section 5.1.1.6. There are no parking spaces dedicated to the subject use; therefore, a waiver under the provisions of Section 5.1.1.6 is required.
- 1.6 The Petitioner will utilize a dumpster at the rear of the property. The Petitioner will be using the existing grease trap, as the type of food proposed to be provided may warrant use of a grease trap.
- 1.7 The Petitioner is not proposing any façade renovations and therefore did not need to go before the Design Review Board to obtain approval for the project.
- 1.8 The site is appropriate for the use and the structure. The site is located on Great Plain Avenue at the railroad crossing in close proximity to other commercial uses. No exterior changes are proposed with the exception of the dumpster enclosure.
- 1.9 Adjoining premises will be protected against seriously detrimental uses on the site by provision of surface water drainage, sound and site buffers, and preservation of view, light and air. No change to the footprint of the building is proposed. The site already includes a surface water drainage system connected to the municipal system and is designed to accommodate the existing runoff. The site is presently fully developed and nothing further is required in the areas of sound and site buffers, preservation of views, light and air. The property and building of which the leased premises are a part are already fully developed and only interior renovations are proposed. No material additional impact is anticipated to surface water drainage, sound and sight, views, light and air.
- 1.10 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, and, when necessary, compliance with other regulations for the handicapped, minors, and the elderly has been assured. There is no on-site parking allocated to the subject use and parking will be available in municipal lots and on-street parking. The building and property of which the leased premises are a part is already fully developed and bounded by existing established ways. Since Sweet Boba is proposing only a small-scale food retail operation, with only interior modifications, and no new driveway opening is contemplated, traffic will not be impacted in a material way. In addition to on-street parking, the premises are in close proximity to two municipal parking lots as well as a parking lot on Lincoln Street and School Street.
- 1.11 Adequate methods for the disposal of refuse and wastes will be provided. The leased premises are already connected to the municipal sanitary sewage system and the site is fully developed. There is and will be a dumpster at the rear of the property for the applicant's use. All refuse and debris will be removed in a timely fashion in accordance with all applicable regulations.
- 1.12 Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of the By-Law will be met. As described above, no changes to the footprint of the existing building are proposed. The building and property on which the leased premises is located is situated in a highly developed commercial area, and is already fully developed. No impacts on the natural landscape, existing buildings and other community assets are contemplated.

- 1.13 Mitigation of adverse impact on the Town's resources including the effect on the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets will be met as there will be no adverse impact on the Town's resources. This project involves the reuse of an existing leased space in the building. All applicable Board of Health regulations with respect to restaurant use will be complied with. The addition of this restaurant to Needham Center will have a positive impact on both Needham Center and the Town of Needham in general. The project will improve the aesthetics of the building, as the space is currently vacant, and will provide another amenity to Needham residents and visitors.
- 1.14 Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been assured. As described above there is no on-site parking allocated to the subject use but street parking is available as well as municipal lots in close proximity to the premises.
- 1.15 The proposed project demonstrates that it is providing the maximum number of off-street parking spaces practicable. Due to the configuration of the building and its location on the lot, it is impossible to comply with the provisions of the Zoning By-Law with regard to off-street parking, as there are no on-site parking spaces allocated to the subject use.
- 1.16 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit may be granted within the Center Business District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, the Town of Needham Design Guidelines for the Business Districts, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.17 Under Section 3.2.2 of the By-Law, a Special Permit may be granted to allow a Special Permit to allow an eat in/take out establishment accessory to a food retail operation in the Center Business District, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law and to comply with all applicable By-Law requirements.
- 1.18 Under Section 3.2.2 of the By-Law, a Special Permit may be granted to allow for more than one nonresidential use on the lot, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.19 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Design Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are

special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhoods inherent use.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) the requested Special Permit under Section 3.2.2 of the By-Law for an eat in/take out establishment accessory to a food retail operation in the Center Business District; (3) the requested Special Permit under Section 3.2.2 of the By-Law for more than one non-residential use on a lot where such uses are not detrimental to each other and are in compliance with all other requirements of this By-Law; and (4) the requested Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

- 2.1 The Plans shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement. All requirements and recommendations of the Board, set forth below, shall be met by the Petitioner.
 - a) No Plan Modifications.

CONDITIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.20 hereof.
- 3.1 The primary use of the premises shall be for the retail sales of bakery items, such as cookies, macaroons, muffins, brownies, croissants (60% of sales) and coffee, boba tea, smoothies and other drinks (30% of sales). As a subordinate and accessory use to the primary use, as described above, accessory sales of sandwiches and salads (5% of sales) and takeout food sales (5% of sales) will be provided. In no event shall the accessory eat-in/take-out component for the sale of salads, sandwiches, and similar items constitute in excess of ten (10) percent of the total business to be done.
- 3.2 The restaurant shall contain no more than 6 seats for on-site food consumption and one take-out station.

- 3.3 The restaurant may be open for business seven 7 (seven) days a week. The hours of operation are 6:00 a.m. to 10:00 p.m. all seven days. The restaurant may utilize the services of no more than 3 (three) employees at any one time.
- 3.4 No façade changes are proposed or approved.
- 3.5 The restaurant shall be located and constructed in accordance with the Plan. Any changes, revisions or modifications to the Plan, as modified by this Decision, shall require approval by the Board, except as provided in Section 3.6 below.
- 3.6 The proposed restaurant shall contain the floor plan and dimensions and be located on that portion of the locus as shown on the Plan, as modified by this Decision, and in accordance with applicable dimension requirements of the By-Law. Provided further, however, the Petitioner may modify the floor plans without further review or approval, provided that the total number of seats does not exceed six (6).
- 3.7 The Petitioner shall purchase three (3) employee parking stickers from the Town of Needham for use in the Town's municipal parking lots. The off-site parking shall be provided without cost to the employee and said employees utilizing off-street parking stickers shall be prohibited from parking in any location outside the Town's permitted parking area.
- 3.8 The waiver of parking requirements granted by this Decision is contingent upon the premises being used as described in this Decision and in accordance with the representations of the Petitioner, which formed the basis of the findings of fact and other conditions stated herein.
- 3.9 All cooking facilities shall be properly vented so as not to create any disturbing odors. There shall be provision for disposal of refuse, which shall be removed on a timely basis.
- 3.10 This Special Permit to operate the Sweet Boba food retail operation at 1032 Great Plain Avenue is issued to Shallots Needham, Inc. dba Sweet Boba, Kakada Ly, President, prospective lessee only, and may not be transferred, set over, or assigned by Shallots Needham, Inc. dba Sweet Boba, Kakada Ly, President, to any other person or entity without the prior written approval of the Board following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient.
- 3.11 All loading and deliveries shall occur only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. Loading, deliveries and trash pick-up shall be restricted to the rear parking area of the subject site and shall not occur on the public way.
- 3.12 All solid waste associated with this project shall be removed from the site by a private contractor. The trash dumpster pick-up shall occur only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and between the hours of 9:00 a.m. and 1:00 p.m. Saturday, Sunday and Holidays. The trash shall be picked up no less than once per week, or more frequently as may reasonably be necessary to control accumulation.
- 3.13 Additional trash receptacles shall be provided if required and the area shall be kept free of litter from the Sweet Boba food retail operation. The dumpster shall be emptied as needed, cleaned and maintained to meet Board of Health Standards.
- 3.14 The Petitioner shall ensure that the grease traps are maintained in accordance with the Sewer Division and Board of Health requirements.

- 3.15 The Petitioner shall use due diligence and make reasonable efforts to prevent customers of the restaurant from parking illegally on Great Plain Avenue or from otherwise improperly disrupting the flow of traffic on either street while patronizing the restaurant.
- 3.16 No building or structure, or portion thereof, subject to this Special Permit and Site Plan Approval shall be occupied until:
- a) A Certificate of Compliance and four copies of an as-built floor plan, signed by the registered architect of record certifying that the project was built according to the approved documents, have been submitted to the Board
 - b) There shall be filed, with the Building Commissioner, a statement by the Board approving the Certificate of Compliance and as-built floor plan for the proposed improvements, in accordance with this Decision and the approved Plan.
 - c) There shall be filed with the Board, evidence that the requirements imposed in Section 3.7, the arrangements for the provision of the off-site employee parking stickers, have been satisfied.
 - d) The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this Decision granting this Special Permit and Site Plan Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.
- 3.17 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commissions or other agencies, including, but not limited to, the Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, Board of Selectmen and Board of Health.
- 3.18 The portion of the building or structures authorized by this permit shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted on site until a Certificate of Occupancy and Use has been issued by the Building Commissioner.
- 3.19 The Petitioner, by accepting this permit Decision, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.20 Violation of any of the conditions of this Decision shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of violation of any conditions of this Decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Commissioner to revoke any building permit or certificate of occupancy granted hereunder. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this Decision including, without limitation, by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Decision if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site improvements, which are the subject of this petition. All construction to be conducted on site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, as modified by this Decision.
- 4.2 There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend or supplement, this Decision and to take other action necessary to determine and ensure compliance with the Decision.
- 4.3 This Decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies or bodies having jurisdiction should not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This Site Plan Special Permit shall lapse on June 20, 2025, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to June 20, 2025. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.
- 4.7 This Decision shall be recorded in the Norfolk District Registry of Deeds and shall not become effective until the Petitioner has delivered a certified copy of the document to the Board. In accordance with G.L. Chapter 40A, Section 11, this Special Permit shall not take effect until a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time is recorded in the Norfolk District Registry of Deeds and is indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at the risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

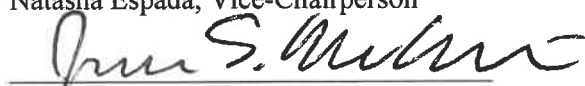
Witness our hands this 20th day of June, 2023.

NEEDHAM PLANNING BOARD

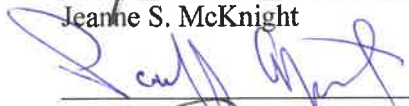
Adam Block, Chairperson



Natasha Espada, Vice-Chairperson



Jeanne S. McKnight



Paul S. Alpert



Artie Crocker

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

June 20, 2023

On this 20 day of June, 2023, before me, the undersigned notary public, personally appeared Natasha Espada, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.



Notary Public Alexandra Cleve
My Commission Expires: March 9, 2029

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Shallots Needham, Inc. dba Sweet Boba, Kakada Ly, President, for property located at 1032 Great Plain Avenue, Needham, Massachusetts, shown on Assessor's Map No. 47 as Parcel 7, has passed,

____ and there have been no appeals filed in the Office of the Town Clerk or
____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Design Review Board
Building Commissioner
Conservation Commission
Shallots Needham, Inc. dba Sweet Boba, Kakada Ly, President

Board of Selectmen
Engineering
Fire Department
Police Department

Board of Health
Town Clerk
Director, PWD
Parties in Interest