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Needham, MASSACHUSETTS 02492
*Also admitted in Maryland

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May 14, 2020

Lee Newman
Planning Director
Town of Needham
1471 Highland Avenue
Needham, MA 02492

Re: Application for Zoning Relief
Spiga Restaurant
18 Highland Circle, Needham, MA

Dear Lee,

Please be advised that I represent Spiga, LLC (hereinafter, "Spiga") relative to the Spiga Restaurant at 18 Highland Terrace, Needham, MA (the "Premises"). In connection therewith, submitted herewith, please find the following:

1. Complete Site Plan Review Application with Addendum
2. Authorization letter;
3. One Full size copy of Architectural Plans titled "Café' Spiga, 18 Highland Circle, Needham, MA", prepared by Nunes – Trabucco Architects, consisting of one sheet titled "Proposed Vestibule Structure", dated May 5, 2020;
4. One Full size copy of Site Plan, titled "Site Plan of Land Showing Proposed Additions, Needham, Mass.", prepared by Site Design Consultants, consisting of one sheet, dated April 23, 2015, rev August 21, 2015, updated to May 14, 2020; and
5. Check no. 8644 in the amount of \$1,000 for the applicable filing fee.¹

The Premises is identified as Parcels 7 and 8 on Town of Needham Assessor's Map No. 74 and consists of two lots – Lot A and Lot B, as shown on the Site Plan. It is located within both the Mixed Use – 128 Zoning District (the "MU-128") and the Highland Commercial-128 Zoning District (the "HC-128"). Lot A, which is currently occupied by an existing parking area, consists

¹ The fee established for site plan review has been submitted. However, as set forth below, in as much as the request for zoning relief is limited to a special permit, Spiga requests that the applicable fee be determined to be less than that required for major project special permit review, and that the overage be refunded to the applicant.

of 6,505 square feet of area, with 103.99 feet of frontage on Highland Circle.² Slightly more than half of Lot A is located in the MU-128, with the remainder located in the HC-128. Lot B, which is currently occupied by the restaurant and associated parking, walkways and patio areas, consists of 5,964 square feet of area with 94.45 feet of frontage on Highland Terrace. Lot B is entirely within the MU-128. The Premises is fully developed, with virtually no existing landscaping or green space, excepting only two rows of existing arborvitae trees on the east and west sides of Lot A.

Based on the records of the Assessor's Department and the Building Department, the front portion of the existing building, which consists of two stories and has a footprint of approximately 441 square feet, appears to have been built in approximately 1900. The rear portion of the existing building, which consists of one story and has a footprint of approximately 1,671 square feet, appears to have been built in 1981. By Decision of the Zoning Board of Appeals, dated May 19, 2005, filed with the Town Clerk on May 26, 2005 (the "Decision"), the building was converted from its prior use to a 54 seat restaurant.³ On April 17, 2008, the Board of Appeals voted to authorize an additional 48 outdoor, seasonal seats. However, because no written decision was issued relative to such vote, the relief granted was never perfected, and in 2018, Spiga sought and received approval for 16 outdoor seats pursuant to Section 6.9 of the Zoning By-Law to address the lapse in permitting relative to the outdoor seats.⁴

As indicated in the Application and shown on the plans, Spiga now desires to construct a vestibule addition in front of the existing entrance, and install a tent in the location of the existing outdoor seating. While the tent can be "rolled back" to be open in nice weather, the framework is permanently affixed and therefore constitutes a structure for zoning purposes. In connection therewith, Spiga is also seeking to increase the patio seating from 16 to 32 total seats. As a result, upon completion, the restaurant will contain a total of 86 seats, serving the same food and operating in substantially the same manner it has for the past 15 years.

Spiga is making application to the Zoning Board of Appeals for the majority of substantive relief required, namely: special permits relating to the use, the change to the building and parking, and a dimensional variance for the proposed vestibule. However, in order to proceed, Spiga also requires a special permit waiver pursuant to Section 4.9.3 of the Zoning By-Law to reduce the applicable side-yard setback. While the Board of Appeals has jurisdiction over majority of substantive relief, Section 4.9.3 provides that only the Planning Board has jurisdiction to grant the required special permit waiver to reduce the setback. That is the sole purpose of the application submitted herewith. Based on recent dialogue with Planning staff as to procedure, both the Board of Appeals application and Planning Board application will be filed and acted on simultaneously.

² Lot A is subject to a 99 year lease for the benefit of Lot B, which lease commenced on November 24, 1982 and will terminate in 2081.

³ The Decision was initially issued to Maria S. and Carmelo Iriti, Trustees of Riti Realty Trust Two, as owners of the property, and was subsequently transferred to Spiga, LLC by decision of the Board in April, 2006.

⁴ In 2015, Spiga sought and obtained zoning relief to construct an addition in roughly the same location as the patio, to make other changes to the building, and to add 36 additional seats, for a total of 90 seats. However, that approval was never acted upon and therefore lapsed.

Pursuant to Section 4.9 of the By-Law, buildings in the MU-128 are required to have a minimum front setback of 5 feet, a side setback of 10 feet, a rear setback of 10 feet, and a maximum height of 70 feet. The setbacks for the existing building on Lot B are: 25.4, front; 0.9 right side, 3.0 left side, and 1.4 rear. While the side and rear setbacks do not comply with the current requirements of the MU-128, as indicated above, the building was constructed well prior to the creation of the MU-128 and is lawful, pre-existing, non-conforming. Moreover, no change is proposed for the portions of the building currently encroaching into the applicable setback.

Both the proposed vestibule and the fixed tent are well under 70 feet in height. A portion of the vestibule encroaches into the side-yard setback, and therefore will require a variance from the Board of Appeals, but the remainder of the vestibule as well as the tent are proposed to be setback 7.5 feet from the left side-line and 18.6 feet from Highland Terrace. As a result, such portions of the project will only comply if the Planning Board issues a special permit waiver, pursuant to Section 4.9.3 reducing the setback requirement to 7.5 feet.

Section 4.9.3 reads, in pertinent part, as follows:

The Planning Board may, by special permit, waive any or all dimensional requirements set forth above in this Section 4.9 . . . by relaxing each by up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan cited in Section 6.8.1(b) of these Zoning By-Laws, and that such waivers are consistent with the requirements of Section 6.8.⁵

Spiga asserts that the location and configuration of the tent and vestibule in relation to the surrounding neighborhood is such that the waiver is consistent with the public good and the intent and purposes of the By-Law. The sideline in question is effectively an interior lot line between the parking area on Lot B and the restaurant on Lot A. As a result, waiving the setback will have no meaningful effect on any third party. Moreover, the waiver will permit the expansion of a high quality restaurant and help the business to survive both current conditions (relative to the Covid-19 pandemic) and anticipated future conditions (reconstruction of Highland Avenue over the next several years). The survival of such business will serve the convenience and well being of surrounding residents and businesses, consistent with the intent and purposes of the By-Law.

Please schedule this matter for the next available hearing of the Board, whether via Zoom or other electronic format, or otherwise. In the meantime, if you have any questions, comments or concerns relative to the foregoing, please do not hesitate to contact me so that I may be of assistance.

⁵ Pursuant to Section 6.8.1 Applicability, Section 6.8 of the By-Law only applies to “special permit[s] for an increase in the floor area ratio over what is permitted by right”, and is therefore inapposite to the within application.

Your courtesy and attention are appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read "Giunta", with a stylized flourish at the end.

George Giunta, Jr.

2020 MAY 15 AM 10:18

PLANNING BOARD

APPLICATION FOR SITE PLAN REVIEW

Project Determination: (circle one) **Major Project** **Minor Project**

Location of Property	18 Highland Circle, Needham, MA 02494,
Name of Applicant	Spiga, LLC
Applicant's Address	18 Highland Circle, Needham, MA 02494
Phone Number	617-792-5974

Applicant is: Owner _____ Tenant X
Agent/Attorney _____ Purchaser _____

Property Owner's Name Riti Realty Trust Two, Carmelo Iriti, Trustee,
Property Owner's Address 18 Highland Circle, Needham, MA 02494
Telephone Number 617-407-5126 - Marisa Iocco, Manager

Characteristics of Property:

A - 6,505	
Lot Area B - 5,964	Present Use Restaurant
Map # 74 Parcel #7&8	Zoning District Mixed Use - 128 & Highland Commercial-128

Description of Project for Site Plan Review under Section 7.4 of the Zoning By-Law:

The Spiga restaurant desires to construct a vestibule addition and a fixed location tent in place of the existing patio area, to contain 32 seats, for an increase of 16 seats. The majority of substantive relief is within the jurisdiction of the Zoning Board of Appeals, but the applicant also requires a special permit to reduce setback which is solely within the jurisdiction of the Planning Board, as described at Addendum A attached hereto and incorporated herein.

Signature of Applicant (or representative) _____
 Address if not applicant _____ George Giunta, Jr., Esq., 281 Chestnut Street, Needam, MA 02492
 Telephone # _____ 781-449-4520
 Owner's permission if other than applicant _____ See Authorization Provided Herewith

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board _____ Date _____
Hearing Date _____ Parties of Interest Notified of Public Hearing _____
Decision Required by _____ Decision/Notices of Decision sent _____
Granted _____
Denied _____ Fee Paid _____ Fee Waived _____
Withdrawn _____

NOTE: Reports on Minor Projects must be issues within 35 days of filing date.

ADDENDUM A
TO
APPLICATION FOR SITE PLAN REVIEW
OF
Spiga, LLC
18 Highland Circle
Needham, Massachusetts

The following relief is or may be required, and is hereby requested:

1. A Special Permit Waiver pursuant to Section 4.9.3 reducing side yard setback 25%, from 10 feet to 7.5 feet;
2. Any and all additional relief required or appropriate for the construction of the proposed vestibule addition, tent, and 32 additional seats, as well as the continued use of the Premises for restaurant purposes.

The Applicant requests that any and all relief granted by the Board in connection with the within application shall run with the land and that the movement of interior walls, seats, equipment and interior fixtures not require further review, provided the total number of seats within the restaurant remains fixed.

Spiga, LLC
18 Highland Circle
Needham, MA 02492

May 8, 2020

Lee Newman
Planning Director
Town of Needham
Planning Board
Town Hall
Needham, Massachusetts 02492

Re: Site Plan Application
Spiga Restaurant
18 Highland Circle, Needham, MA

Dear Mrs. Newman,

Please accept this letter as confirmation that George Giunta, Jr., Esquire, is authorized to make application for Site Plan Approval and any and all other zoning, planning, general by-law and other relief that may be required or appropriate in connection with the alteration and expansion of the Spiga Restaurant at 18 Highland Circle. In connection therewith, Attorney Giunta is hereby authorized, to execute, sign, deliver and receive all necessary documentation related thereto, including, without limitation, Application for Site Plan Review.

Sincerely,

A handwritten signature in dark ink, appearing to read "Giunta", written in a cursive style.

Manager

REGARDING
DRYWELL
N.T.S.

4'-0"

VOLUME
50.2 C.F.

4'-0"

TOTAL LOT AREA = 12,469 S.F.
TOTAL RIVERFRONT AREA = 42,436 S.F.
AREA OF LOT IN OUTER RIPARIAN
RIVERFRONT = 6008 S.F.
ALTERATION IN OUTER RIPARIAN ZONE = 208 S.F.
TOTAL IMPERVIOUS LOT AREA PRE CONSTRUCTION = 12,245 S.F.
TOTAL IMPERVIOUS LOT AREA POST CONSTRUCTION = 11,798 S.F.
TOTAL IMPERVIOUS AREA IN RIVERFRONT PRE CONSTRUCTION = 5960 S.F.
TOTAL IMPERVIOUS AREA IN RIVERFRONT POST CONSTRUCTION = 5833 S.F.
ROOF AREA ADDITION NO. 1 = 608 S.F. x 1" RAINFALL = 48.6 C.F.
DRYWELL AREA = 50.2 C.F.

EROSION CONTROL DETAILS

SECTION
N.T.S.

ANCHOR SPACING
1' ON MIN.

PLAN AT OUTLINE

ZONING TABLE

Zoning District: MU-128 & HC-128

	Required	Existing	Proposed
LOT A			
Lot Area	10,000 S.F.	6505 S.F.	6505 S.F.
Lot Frontage	100'	103.99'	103.99'
Open Space	20%	3.97%	6.87%

LOT B			
Lot Area	10,000 S.F.	5964 S.F.	5964 S.F.
Lot Frontage	100'	94.45'	94.45'
Open Space	20%	0.0%	5.1%
Front Setback	5'	25.4'	25.4'
Existing Bldg.	5'	N/A	18.6
Proposed Add'n.			
Side Setback	10'	0.9'	0.9'
Existing Bldg.	10'	N/A	2.0'
Proposed Add'n.			
	(7.5' by SP 4.9.3)		

Rear Setback	10'	1.4'	1.4'
Building Height	70'	<25'	<25'
Lot Coverage	65%	34.64%	43.74%
	(81.25% by SP 4.9.3)		
Floor Area Ratio	1	0.42*	0.517*
	(1.75 by SP 4.9.3)		

* Based on Assessor's Data for Existing Building

PARKING TABLE

	Parking Demand	Spaces Provided	Waiver Required
Existing	24	28	0
Proposed	29	28	1
Parking Calculation			
Existing	54 Seats Year Round	1 space/3 seats = 18 spaces	
	16 Seasonal	1 space/3 seats = 5.3 (6) spaces	
		24 Total spaces required	
Proposed	54 Seats Year Round	1 space/3 seats = 30 spaces	
	32 Seasonal	1 space/3 seats = 10.6 (11) spaces	
		29 Total spaces required	

Existing Building Footprint: 2014 S.F.
Addition No. 1 Footprint: 594 S.F.

SITE PLAN OF LAND SHOWING PROPOSED ADDITIONS AT 18 HIGHLAND CIRCLE

NEEDHAM, MASS.

APR. 23, 2015 SCALE 1"=20'
REV. AUG. 21, 2015
UPDATED TO MAY. 14, 2020
SITE DESIGN CONSULTANTS
76 NEHOIDEN ST.
NEEDHAM, MASS.



- EXISTING ARBOREAL TREES TO
REMAIN POST CONSTRUCTION
- PROPOSED RHODODENDRON
- PROPOSED AZALEA BUSHES

NOTES:
FULL SIZE SPACES= 9'x18.5'
COMPACT SPACES= 8'x16'



KITCHEN
 SINK
 STOVE
 REF
 COUNTER
 DOOR
 CABINET
 WINDOW
 SINK
 STOVE
 REF
 COUNTER
 DOOR
 CABINET
 WINDOW

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