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PLANNING DIVISION
Planning & Community Development

**AMENDMENT TO DECISION
March 28, 2022**

**MAJOR PROJECT SITE PLAN SPECIAL PERMIT
LATIN-A GROUP LLC d/b/a Latina Kitchen and Bar 30 Dedham Avenue, Needham, MA 02492
Application No. 2015-07
(Original Decision dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019)**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of LATIN-A GROUP LLC d/b/a Latina Kitchen and Bar, (hereinafter referred to as the Petitioner) for property located at 30 Dedham Avenue, Needham, MA. Said property is shown on Needham Town Assessors Plan, No. 47 as Parcel 4 containing 10,867 square feet in the Center Business District.

This decision is in response to an application submitted to the Board on February 15, 2022, by the Petitioner to amend the decision by the Board dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019. The Petitioner seeks: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law), (2) a Special Permit Amendment to Major Project Site Plan Review Special Permit No. 2015-07, Section 4.2., and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively).

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to reduce the number of seats permitted at the restaurant from 100 seats to 99 seats. With this change, the Petitioner is now proposing a 99-seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. Additionally, the Petitioner seeks to permit 10 outdoor tables with 28 outdoor seats by Latina Kitchen and Bar within the driveway abutting the building and to further reduce the number of indoor seats provided at the restaurant from 99 seats to 71 seats running from April 1 through November 30. With this modification a total of 99 seats would be available from April 1 through November 30 distributed as follows: 71 seats are to be available for indoor dining and 28 seats are to be available for outdoor dining. During the months of December 1 through March 31 a total of 99 seats allocated to indoor dining would be provided. Additionally, the Petitioner is requesting to amend the decision to allow for deliveries to be made from Dedham Avenue, instead of solely through the rear parking lot.

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 Chairperson, Paul S. Alpert on Monday, March 28, 2022 at 7:15 p.m. by Zoom Web ID Number 880 4672 5264. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the March 28, 2022 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

EVIDENCE

Submitted for the Board's review were the following exhibits:

- Exhibit 1 - Application for the Amendment to 2006-04 and application under Section 6.9 of the Zoning By-Law, dated February 15, 2022.
- Exhibit 2 - Plan entitled "Latina Kitchen and Bar, 30 Dedham Avenue, Outdoor Seating Plan," prepared by reMake Design, dated February 10, 2022.
- Exhibit 3 - Specifications of outdoor furniture.
- Exhibit 4 - Photographs.
- Exhibit 5 - Letter from Jeffrey Feuerman, Brookline Development Corp LLC, dated January 7, 2022.
- Exhibit 6 - Plan of Easements, 916-932 Great Plain Avenue, 36-58 Dedham Ave, prepared by Geod Consulting, 24 Ray Ave, Burlington, MA, dated November 15, 2012.
- Exhibit 7 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated February 28, 2022; IDC to the Board from Tom Ryder dated March 24, 2022; IDC to the Board from Chief Dennis Condon, Fire Department, dated February 24, 2022; IDC to the Board from Chief John Schlittler, dated March 24, 2022; IDC to the Board from David Roche, Building Commissioner, dated February 23, 2022.

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

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 2015-07, dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, were ratified and confirmed except as follows:

- 1.1 The Petitioner is requesting that Major Project Site Plan Review Special Permit No. 2015-07, dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019 be amended to reduce the number of seats permitted at the restaurant from 100 seats to 99 seats. With this change, the Petitioner is now proposing a 99-seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. Additionally, the Petitioner seeks to permit 10 outdoor tables with 28 outdoor seats by Latina Kitchen and Bar within the driveway abutting the building and to further reduce the number of indoor seats provided at the restaurant from 99 seats to 71 seats running from April 1 through November 30. With this modification a total of 99 seats would be available from April 1 through November 30 distributed as follows: 71 seats are to be available for indoor dining and 28 seats are to be available for outdoor dining. During the months of December 1 through March 31, a total of 99 seats allocated to indoor dining would be provided. Additionally, the Petitioner is requesting to amend the decision to allow for deliveries to be made from Dedham Avenue, instead of solely through the rear parking lot.
- 1.2 The driveway located beside 30 Dedham Avenue is shown on the Plan of Easements described in Exhibit 6 and is owned in part by 30 Dedham Avenue and in part by 50 Dedham Avenue.
- 1.3 The Petitioner has provided a letter from Jeffrey Feuerman, Brookline Development Corp LLC (owner of 50 Dedham Avenue), dated January 7, 2022 (Exhibit 5) stating his approval of the placement of the outdoor dining seating within the driveway easement area subject to the following

conditions. Deliveries from Latina Kitchen and Bar and other business within the subject building are to be conducted from Dedham Avenue and Great Plain Avenue and no deliveries to such business are to be made to the rear parking lot through the 50 Dedham Avenue driveway. Notwithstanding the above, trash-pick from Latina Kitchen and Bar and other business within the subject building through the 50 Dedham Avenue driveway is permissible.

- 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 a 71-seat restaurant with one take-out station is 34 (1 parking space per 3 seats, plus 10 parking spaces for one take-out station). Section 6.9 of the Zoning By-Law permits up to 30% of the approved indoor seating to be utilized outdoors without authorization from the Special Permit Granting Authority and the provision of additional parking. 30% of 71 seats is 22 seats. As the Petitioner is requesting 28 outdoor seats, the Petitioner is requesting more than 30% of the approved indoor seats and is therefore requesting approval for such, as allowed by Section 6.9, as well as an additional parking waiver under Section 5.1.1.6. Twenty-two (22) seats are permitted through Section 6.9; therefore, the Petitioner is requesting a parking waiver with respect to the remaining 6 seats, which is a waiver of 2 additional parking spaces. Accordingly, a waiver of 36 parking spaces has been requested from April 1 through November. 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 for the entire structure or a waiver is granted pursuant to the provisions of Section 5.1.1.6. As there is no parking associated with the property, a waiver under the provisions of Section 5.1.1.6 is required.
- 1.6 The Petitioner has requested to revise Section 3.2 of the Original decision, from the previous: “The restaurant shall contain no more than 100 seats for on-site food consumption and one take-out station.” to now say “The restaurant shall contain no more than 99 seats for on-site food consumption and one take-out station with said seating distributed as follows: Seventy (71) seats are to be available for indoor dining and twenty-eight (28) seats are to be available for outdoor dining from April 1 through November 30. During the months of December 1 through March 31 a total of 99 seats shall be allocated to indoor dining.”
- 1.7 The Petitioner has requested to revise Section 3.11 of the Original decision, from the previous: “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.” to now say “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 and deliveries shall be permitted to occur from the public way. Trash pick-up shall be restricted to the rear parking area of the subject site.”
- 1.8 The Petitioner appeared before the Design Review Board on March 28, 2022 and obtained approval for the project.
- 1.9 No changes to the interior of the restaurant are proposed by this application.
- 1.10 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Business Center 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 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.

- 1.11 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 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 neighborhood's inherent use.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2015-07, Section 4.2; and (2) 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), 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.

- 2.0 No Plan modifications are required.

CONDITIONS AND LIMITATIONS

The conditions and limitations contained in Major Project Site Plan Special Permit No. 2015-07, dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, are ratified and confirmed except as modified herein.

- 3.1 A total of 28 outdoor dining seats as shown in the plans as detailed in Exhibit 2 of the Decision are hereby approved for use from April 1 through November 30, within the driveway as shown in Exhibit 6.
- 3.2 The outdoor dining area shall be kept clear of trash and food scraps that might attract rodents.
- 3.3 Outdoor dining is only permitted as long as the safety measures to separate vehicles and people dining can be maintained. During the Covid-19 relief measures that permitted outdoor dining, this has consisted of "Jersey barriers" as provided by the Town. If said barriers are no longer available, the

Petitioner shall return to the Planning Board to request some alternate barrier, at which time the Board will seek comment from public safety and DPW departments.

- 3.4 Exercise of the rights under this permit for outdoor seating are subject to continued approval by the abutter at 50 Dedham Avenue to use the entire driveway right of way for outdoor dining by the Petitioner and continued approval by 50 Dedham Avenue to use its driveway for trash pick-up. See Exhibit 5 above.
- 3.5 Section 3.2 of the Original decision is revised to say: "The restaurant shall contain no more than 99 seats for on-site food consumption and one take-out station with said seating distributed as follows: Seventy (71) seats are to be available for indoor dining and twenty-eight (28) seats are to be available for outdoor dining from April 1 through November 30. During the months of December 1 through March 31 a total of 99 seats shall be allocated to indoor dining."
- 3.6 Section 3.11 of the Original decision is revised to say: "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 and deliveries shall be permitted to occur from the public way. Trash pick-up shall be restricted to the rear parking area of the subject site."
- 3.7 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 Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.8 No portion of the outdoor dining area, subject to this Amendment, shall be occupied and utilized by the Petitioner until there shall be filed with the Board documentation of a satisfactory inspection by the Building Commissioner of the as-built condition and the Commissioner certification of the project's compliance with the terms of this Decision.
- 3.9 No other changes were requested nor are permitted through this amendment.
- 3.10 This Site Plan Special Permit Amendment shall lapse on March 28, 2024, 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 March 28, 2024. 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.

This approval shall be recorded in the Norfolk District Registry of Deeds. 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 Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

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 General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block
Adam Block

Natasha Espada
Natasha Espada

Martin Jacobs
Martin Jacobs

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

April 7, 2022

On this 7 day of April, 2022, before me, the undersigned notary public, personally appeared Jeanne McKnight, 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 be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name: Alexandra Lee
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 LATIN-A GROUP LLC, for Property located at 30 Dedham Avenue, 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 # _____
 Town Clerk
 Building Inspector
 Conservation Commission
 Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department

Board of Health
Director, PWD
Design Review Board

Antonio De Trizio, Manager, LATIN-A GROUP LLC