



City of Newton, Massachusetts
Department of Planning and Development
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#90-18

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Ruthanne Fuller
Mayor

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	March 6, 2018
Land Use Action Date:	May 8, 2018
City Council Action Date:	May 21, 2018
90-Day Expiration Date:	June 4, 2018

DATE: March 2, 2018

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Neil Cronin, Senior Planner

SUBJECT: **Petition #90-18**, for SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #45-10 to remove a condition requiring off-site parking at **70-80 Union Street**, Ward 6, Newton Centre, on land known as Section 61, Block 36, Lot 11A and Section 61, Block 36, Lot 09, containing approximately 2, 842 and 31, 455 sq. ft. of land in a district zoned Business Use 1. Ref: §7.3.3, and §7.4, of Chapter 30 of the Newton Revised Zoning Ordinance, 2015.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Public Hearing/Working Session.



70 Union Street

EXECUTIVE SUMMARY

The property located at 70-80 Union Street consists of a 2, 842 square foot lot improved with a historic train station structure listed on the National Register of Historic Places. The property is located in the Business Use 1 (BU-1) zone in Newton Centre operating as a restaurant. The petitioner obtained a special permit (Board Order #45-10) to waive the parking requirement associated with the then-proposed restaurant in 2010 (**Attachment A**). The approval was conditioned upon the petitioner leasing four parking stalls off site at 93 Union Street for employee parking. The petitioner seeks to remove this condition from the decision; therefore, the petitioner requires an amendment to Board Order #45-10.

The property was previously owned by the Massachusetts Bay Transportation Authority (MBTA) who secured a long-term lease with the petitioner. The petitioner, in turn, subleased the building to the restaurant. The ownership of the property has changed, and the petitioner is no longer affiliated with the property at 70-80 Union Street. The petitioner retains ownership of 93 Union Street and seeks to remove themselves from the property at 70-80 Union Street by eliminating the condition.

The restaurant has existed on site since 2012 which has allowed operations to normalize and for patrons to become familiar with Newton Centre. The site is adjacent to a transit station in a walkable environment containing bicycle racks. For these reasons, staff believes eliminating the condition requiring off-site parking will not adversely affect the Village. Nevertheless, staff believes the new restaurant operator shall submit a parking management plan prior to the issuance of a building permit, should this petition be approved.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed amendment to Board Order #45-10. (§7.3.3.C.1.)
- The proposed amendment to Board Order #45-10 will not adversely affect the neighborhood. (§7.3.3.C.2.)
- The proposed amendment to Board Order #45-10 will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3.)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4.)

II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain commercial.

B. Building and Site Design

The petitioner is not proposing any changes to the structure or site.

C. Parking

In 2010, the petitioner sought a special permit to waive the parking requirement of a restaurant with more than fifty seats. At the time, the restaurant required 34 parking stalls. There is no parking on site, but the property had a 16-stall credit from the previous use; the special permit waived the remaining 18 stalls. The approval required the petitioner to make four stalls off site at 93 Union Street available to restaurant employees.

The petitioner entered into a lease agreement with the restaurant to provide four parking stalls required by Order #45-10. The petitioner states the restaurant never exercised the lease, and therefore never utilized the four stalls at 93 Union Street. Instead, employees either utilized alternative methods of transportation or parked elsewhere off site.

The Planning Department has learned the petitioner is no longer affiliated with the property at 70-80 Union Street and seeks to remove themselves by eliminating the condition. The new restaurant will operate in accordance with the approved special permit concerning number of seats and number of employees and will adhere to the conditions of the special permit. Board Order #45-10 required the petitioner to implement a final parking management strategy and staff suggests the new restaurant operator implement a parking management plan, which at the very least, should include the following, prior to the issuance of a building permit:

- Advertise available metered-parking in Newton Centre to patrons online and in print, including duration and cost;
- Encourage carpooling or ride-sharing amongst employees; and
- Best efforts to participate in any employee parking program implemented in Newton Centre.

The restaurant has been in operation at this site since 2012 which has allowed for operations to normalize and for patrons to become familiar with Newton Centre. The site is adjacent to a transit station in a walkable environment and contains bicycle

racks. For these reasons, staff believes eliminating the condition for off-site parking will not adversely affect the Village.

III. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment B**). Based on the Memorandum, the petitioner is seeking the following relief:

- Amend Board Order #45-10

B. Engineering Review

Engineering review is not required with this petition.

IV. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Board Order #45-10
Attachment B: Zoning Review Memorandum, dated November 16, 2017
Attachment C: DRAFT Council Order



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CITY CLERK
NEWTON, MA. 02159

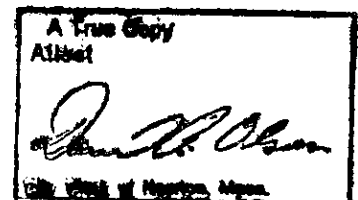
ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN for a parking waiver of up to 18 parking stalls, and to allow for a restaurant in excess of 50 seats as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Ted Hess-Mahan:

1. The Union Street property, located at a transit node and close to residential neighborhoods, is an appropriate location for a restaurant use with greater than 50 seats that will serve shoppers, employees, and the surrounding neighborhood. Because the facility will be located adjacent to an MBTA Green Line station, there will be a readily available supply of customers.
2. The proposed restaurant use as developed and operated will increase the vitality of the Newton Centre BU-1 zoned commercial district and will complement other uses in the immediate vicinity.
3. The waiver of up to 18 parking stalls is appropriate for the following reasons:
 - a. Literal compliance is impracticable because the building was built as a train station and without any parking.
 - b. It is anticipated that approximately 50% of the applicant's business will be conducted on the weekends when parking and traffic is at its lowest intensity; and approximately 1/3 of the applicant's business will be derived from MBTA passengers, who get on and off the train at the location of the restaurant.
 - c. Parking counts conducted by the petitioner in January and February 2010 show that there is sufficient excess parking supply within a 3½-minute walk to the diner to absorb the expected demand for parking during peak periods, and that the waiver of the requirement for 18 parking stalls will not adversely affect parking, traffic, or circulation in the Newton Centre commercial district.

THE UNIVERSITY OF CHICAGO

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- d. The petitioner submitted a Parking Management Plan on file with the City. The plan appoints a parking management coordinator to implement the parking management plan and to encourage employees to utilize alternative means of transportation to work for in order to preserve metered spaces for customers.
- c. The leasing of four off-site parking spaces for employee use and participation in the City's commercial employee parking permit program for two additional spaces will help ensure metered parking spaces are available for use by the public.
4. The petitioner will improve the landscaping adjacent to the property and is installing neighborhood amenities including a bike rack, benches, stroller parking and trash receptacles. The bike racks will also accommodate parking for motorized scooters, such as Vespas.
5. The reuse of this currently vacant building is in the public interest as it will be in operation from early morning to late evening and will enhance the safety of the area, and will help allow for the preservation of the architecturally significant structure.
6. The proposed use is consistent with the *Newton Comprehensive Plan* because it increases the vitality of the village commercial district by offering services to the neighborhood and an amenity to the surrounding area and because it facilitates the preservation of a historic building and historic grounds.

PETITION NUMBER: #45-10

PETITIONER: Deluxe Station Diner as applicant and tenant

LOCATION: 70 Union Street, Section 61, Block 36, Lot 11A containing approximately 2,842 square feet of land

OWNER: American Companies

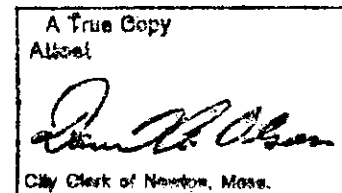
ADDRESS OF OWNER: 93 Union Street, Suite 315, Newton Centre, MA 01459

TO BE USED FOR: Restaurant/Diner with up to 90 seats

CONSTRUCTION: Existing masonry building

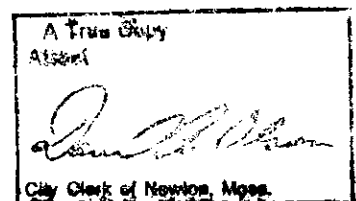
EXPLANATORY NOTES: §30-11(d)(9) to allow for a restaurant in excess of 50 seats in a BU-1 zone; §30-19(d) and 30-19(m) to allow for a waiver for up to 18 parking stalls from the 34 parking stalls required for the proposed use; §30-23 for site plan approval; and §30-24(d) for special permit approval

ZONING: Business 1 District

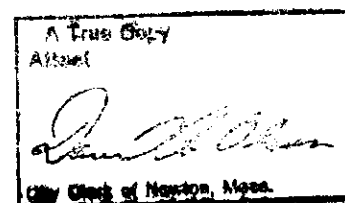


Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with the plans dated January 12, 2010 including:
 - o "EX-1, Site Context, Deluxe Station Diner, Union Street, Newton Centre, MA," prepared by JD LaGrasse & Associates, Inc. Revised 3/19/2010 and 4/1/10.
 - o "EX-2, Existing Site Plan, Deluxe Station Diner, Union Street, Newton Centre, MA," prepared by JD LaGrasse & Associates, Inc.
 - o "C-1, Proposed Site Improvements, Deluxe Station Diner, Union Street, Newton Centre, MA," prepared by JD LaGrasse & Associates, Inc.
 - o "A-1, Proposed Diner, Deluxe Station Diner, Union Street, Newton Centre, MA," prepared by JD LaGrasse & Associates, Inc.
2. The petitioner may operate a restaurant/diner with a maximum of 90 seats and up to 12 employees on the largest shift.
3. So long as the restaurant use authorized by this special permit operates at this location, any plant material installed by the petitioner or its successor that becomes diseased or dies shall be replaced on an annual basis with similar material.
4. Dumpsters relating to the subject property will be maintained by the petitioner so that they are clean and the area is free of debris and odors.
5. Signage shall be reviewed by the Urban Design Commission and the Director of Planning and Development.
6. Hours of operation may be from 6 a.m. to 11:30 p.m. daily.
7. The petitioner shall provide a copy of the signed lease agreement dedicating four parking spaces for exclusive use of the Diner behind 93 Union Street prior to the issuance of a Certificate of Occupancy.
8. Concurrent with the lease of the restaurant, the petitioner shall limit parking in the parking lot located behind 93 Union Street, Newton, to employees of the restaurant only.
9. The petitioner intends leasing four parking spaces behind 93 Union Street, Newton, for a length of time coterminous with its lease of space at 70 Union Street. Should the petitioner lose the ability to lease these four parking spaces, the petitioner shall replace such stalls with a suitable, equivalent alternative subject to the approval of the Commissioner of the Inspectional Services Department and the Director of Planning and Development. The Petitioner shall have up to sixty days from the termination of the lease of said parking spaces to propose a suitable, equivalent alternative.
10. The petitioner shall participate in the City's commercial employee meter permit program for two spaces, if available.



11. The petitioner shall use best efforts to recycle all materials used in connection with the restaurant.
12. The petitioner shall request permission from the Commissioner of Public Works to place trash receptacles, benches, plantings, and a bike rack on the public sidewalks in front of the premises in accordance with plans listed in Condition #1. If permission is granted, the petitioner shall, at its sole expense, provide the approved receptacles and maintain and empty them regularly to prevent litter overflow.
13. The petitioner has the option to operate a one (1) take out window on either the track side of the restaurant or the Union Street side of the restaurant. The petitioner may operate the take out window on the track side of the restaurant during regular restaurant operating hours. The petitioner shall not operate a take out window on the Union Street side of the building after 12 noon to avoid creating a potential conflict with the MBTA live parking area.
14. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. submitted to the Director of Planning and Development for review and approval a final landscape plan indicating the location, number, size, and type of plants to be installed. The plan shall be based on the principles illustrated in the two other Olmstead designed stations in Newton and shall encompass the MBTA-owned planting areas on the west and east sides of the building.
 - d. submitted to the Director of Planning and Development a final Parking Management Plan to actively encourage employees to use alternative modes to access the site.
 - e. obtained a statement from the Director of Planning and Development that all plans are consistent with Condition #1.
15. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:
 - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or registered engineer certifying compliance with Condition #1.
 - b. submitted to the City Engineer final as-built plans in both digital format and hard copy.
 - c. submitted to the Director of Planning and Development final as-built plans in digital format.



- d. filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving the final location, number and type of plant materials, final landscape features, bike rack and directional signage.
16. Notwithstanding the provisions of Condition #15.d. above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of the bike rack, directional signage and landscaping provided the petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining site improvements to ensure their completion.

Under Suspension of Rules

Readings Waived and Approved

22 yeas 0 nays 2 absent (Aldermen Freedman and Harney)

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on April 23, 2010. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:



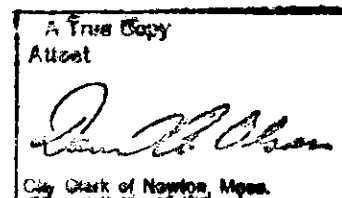
(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on 4/23 and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:



(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen





Setti D. Warren
Mayor

Attachment B

City of Newton, Massachusetts
Department of Planning and Development

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: November 16, 2017

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Jodie Zussman, First General Realty Corp
American Companies
Barney S. Heath, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to amend Special Permit #45-10

Applicant: American Companies	
Site: 70-80, and 93 Union Street	SBL: 61036 0011A and 61036 0009
Zoning: BU1	Lot Area: 2,842 square feet and 31,455 square feet
Current use: Diner and mixed commercial	Proposed use: No change

BACKGROUND:

The property at 70 Union Street consists of a 2,842 square foot lot improved with an historic train station structure constructed circa 1900. The property is owned by the MBTA but is under a long-term lease agreement with the Boston Development Group, who is responsible for leasing the space to commercial tenants. The property received a special permit in 2010 to allow for a 90-seat restaurant and a parking waiver of 18 stalls

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Jodie Zussman, submitted on 10/4/2017
- Topographic Site Plan, signed and stamped by Joseph R. Porter, surveyor, dated 8/16/2017
- Area Plan, submitted 10/4/2017
- Special Permit #45-10, dated 4/20/2010

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner received Special Permit #45-10 in 2010 to allow a restaurant with more than 50 seats and to waive 18 parking stalls. The proposed 90 seat restaurant had projected 12 employees at the busiest shift, thereby requiring 34 parking spaces. At the time of permitting, the site had a 16-stall parking credit from previous uses, thus requiring a waiver of the remaining 18 stalls, as no parking exists on site. One of the conditions of the special permit was that the petitioner lease four off-site parking spaces for employee use, and participate in the City's commercial employee parking permit program for two additional spaces. The petitioner states that the four off-site parking stalls located in a private lot behind 93 Union Street have never been utilized. The petitioner requests that the condition be eliminated from the decision.
2. As the special permit waived all 18 stalls required to meet the parking requirement of 34 stalls, no further waiver is required if the off-site stalls are no longer leased and part of the special permit.

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Special Permit #45-10 to eliminate the requirement for four off-site parking stalls	S.P. per §7.3.3

Next Steps

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

The following must be included when filing a Special Permit Application:

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
 - Site Plans showing existing and proposed conditions (including topography as applicable)
 - Architectural plans showing existing and proposed conditions (including façade materials)
 - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

Incomplete applications will delay the intake and review of your project.

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners? Y/N

CITY OF NEWTON

IN CITY COUNCIL

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to amend Board Order #45-10 to remove the condition requiring off site parking stalls as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman Councilor Gregory Schwartz:

1. The specific site is an appropriate location for the amendment to Board Order #45-10 concerning off-site parking because the site is adjacent to a transit station in a walkable environment. (§7.3.3.C.1.)
2. The restaurant, as developed and operated, will not adversely affect the neighborhood due to the amendment to Board Order #45-10 because the restaurant is located in a village center served by three municipal parking lots. (§7.3.3.C.2.)
3. There will be no nuisance or serious hazard to vehicles or pedestrians because of the amendment to Board Order #45-10 because the restaurant has existed on site for many years. (§7.3.3.C.3.)
4. Access to the site over streets is appropriate for the types and number of vehicles involved. (§7.3.3.C.4.)

PETITION NUMBER: #90-18

PETITIONER: 80 Union Street LLC
Double J Hospitality, LLC
American Companies, Inc.
Union Realty Trust

LOCATION: 70 Union Street, Section 61, Block 36, Lot 11A containing approximately 2,842 square feet of land

OWNER: 80 Union Street LLC

ADDRESS OF OWNER: 1234 Boylston Street, Chestnut Hill, MA 02467

TO BE USED FOR: Restaurant/Diner with up to 90 seats

CONSTRUCTION: Existing masonry building

EXPLANATORY NOTES: §7.3.3 and §7.4 to amend Board Order #45-10 to remove a condition requiring off-site parking

ZONING: Business 1 District

This special permit supersedes, consolidates, and restates provisions of prior special permits to the extent that those provisions are still in full force and effect. Any conditions in prior special permits not set forth in this special permit #91-18 are null and void.

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan approval shall be located and constructed consistent with:
 - a. "EX-1, Site Context, Deluxe Station Diner, Union Street, Newton Centre, MA," prepared by JD LaGrasse & Associates, Inc. Revised 3/19/2010 and 4/1/10.
 - b. "EX-2, Existing Site Plan, Deluxe Station Diner, Union Street, Newton Centre, MA," prepared by JD LaGrasse & Associates, Inc.
 - c. "C-1, Proposed Site Improvements, Deluxe Station Diner, Union Street, Newton Centre, MA," prepared by JD LaGrasse & Associates, Inc.
 - d. "A-1, Proposed Diner, Deluxe Station Diner, Union Street, Newton Centre, MA," prepared by JD LaGrasse & Associates, Inc.
2. The petitioner may operate a restaurant/diner with a maximum of 90 seats and up to 12 employees on the largest shift.
3. So long as the restaurant use authorized by this special permit operates at this location, any plant material installed by the petitioner or its successor that becomes diseased or dies shall be replaced on an annual basis with similar material.
4. Dumpsters relating to the subject property will be maintained by the petitioner so that they are clean and the area is free of debris and odors.
5. Signage shall be reviewed by the Urban Design Commission and the Director of Planning and Development.
6. Hours of operation may be from 6 a.m. to 11:30 p.m. daily.

7. The petitioner shall use best efforts to recycle all materials used in connection with the restaurant.
8. The petitioner shall request permission from the Commissioner of Public Works to place trash receptacles, benches, plantings, and a bike rack on the public sidewalks in front of the premises in accordance with plans listed in Condition #1. If permission is granted, the petitioner shall, at its sole expense, provide the approved receptacles and maintain and empty them regularly to prevent litter overflow.
9. The petitioner has the option to operate a one (1) take out window on either the track side of the restaurant or the Union Street side of the restaurant. The petitioner may operate the take-out window on the track side of the restaurant during regular restaurant operating hours. The petitioner shall not operate a take-out window on the Union Street side of the building after 12 noon to avoid creating a potential conflict with the MBTA live parking area.
10. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. recorded a certified copy of this board order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. submitted to the Director of Planning and Development for review and approval a final landscape plan indicating the location, number, size, and type of plants to be installed. The plan shall be based on the principles illustrated in the two other Olmstead designed stations in Newton and shall encompass the MBTA-owned planting areas on the west and east sides of the building.
 - d. submitted to the Director of Planning and Development a final Parking Management Plan to actively encourage employees to use alternative modes to access the site.
 - e. obtained a statement from the Director of Planning and Development that all plans are consistent with Condition #1.
11. No Final Inspection and/or Occupancy Permit for the portion of the building covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
 - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or registered engineer certifying compliance with Condition #1.
 - b. submitted to the City Engineer final as-built plans in both digital format and hard copy.
 - c. submitted to the Director of Planning and Development final as-built plans in digital format.

- d. filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving the final location, number and type of plant materials, final landscape features, bike rack and directional signage.
12. Notwithstanding the provisions of Condition #11 above, the Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to installation of the bike rack, directional signage and landscaping provided the petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining site improvements to ensure their completion.