

**CITY OF METHUEN
COMMUNITY DEVELOPMENT BOARD**

NOTICE OF DECISION- SPECIAL PERMIT APPROVAL

Section XI-D (12) Drive-up Retail, Business or Service Establishment, Drive-up or Drive-through Restaurant and Stand-Alone Kiosk, Drive-through or Walk-up
Haverhill Street

Case No. 2024-1
Date of Application: 09-07-23
Date of Hearing: 10-11-23, 11-8-23, 12-13-23, 01-10-24
Date of Decision: 01-12-24

Premises Affected: Assessors parcels 618-155-5J2, 618-155-5F and a portion of 618-155-5E
Neighborhood Business (BN) Zoning District

Referring to the above petition for a Special Permit from the requirements of Section XI-D (12) of the City of Methuen Comprehensive Zoning Ordinance to allow the construction of a ±785 SF drive-through and walk-up Aroma Joe's coffee retail store.

At a public hearing held on January 10, 2024 the Community Development Board voted **UNANIMOUSLY** (5-0) to **APPROVE WITH CONDITIONS** the special permit for a drive through restaurant.

This is to certify that the above action was taken in compliance with the statutory requirements as set forth in Chapter 40A of the General Laws, and that a copy of this decision was filed with the City Clerk on **January 12, 2024**.

CITY OF METHUEN
COMMUNITY DEVELOPMENT BOARD

By: _____
Stephen F. DeFeo, Jr.
Chairman, Community Development Board

Any appeal of this decision shall be made pursuant to the requirements of Massachusetts General Laws and shall be filed within twenty (20) days after the date the notice of decision was filed with the Methuen City Clerk.

I hereby certify that no appeal has been filed in the Methuen City Clerk's Office, within the twenty (20) day appeal period.

Anne J. Drouin, Methuen City Clerk

FINDINGS OF FACT:

Amigos Coffee, LLC filed an application for a Special Permit on September 7, 2023. The applicant submitted a complete application, which was noticed and reviewed in accordance with Section XI Special Permits of the City of Methuen Comprehensive Zoning Ordinance and MGL Chapter 40A, Section 9.

The project site will contain approximately 17,928 square feet (the Site). The Site is partially developed with portions of the Site being paved, some portions containing maintained lawn area, and a wooded slope with a well-defined wetland at the bottom of the slope. The project entails the construction of a ±785 square foot drive through and walk-up Aroma Joe's coffee store. There will be no indoor seating. Six parking spaces, including one van accessible parking space will be constructed as well as a drive-through lane with a by-pass, and associated site grading and utilities. Stormwater will be controlled by an underground chamber stormwater detention system.

The project is shown on a plan entitled: Proposed Site Plan, Aroma Joe's Drive-Through, Haverhill Street, Methuen, Massachusetts; Owner of record: Charles F. Perrault; Applicant: Amigos Coffee, LLC; prepared by Andover Consultants Inc.; dated July 31, 2023. Rev. through 12/26/23, as may be revised by this decision.

The public hearing on the above referenced application was opened on October 11, 2023 and closed on January 10, 2024. The Board heard a presentation from Dennis Grecci, Andover Consultants and Ken Cram, Bayside Engineering and reviewed correspondence from the City's Engineering Department, the Fire Department, and the Board's peer review agent TEC. No abutters spoke either in favor or in opposition to the project. Upon a motion by Mr. Comei, seconded by Ms. Plunkett, the Board voted unanimously (5-0) to close public hearing. Upon a motion by Mr. Comei, seconded by Ms. Plunkett, the Board voted unanimously (5-0) to GRANT the Special Permit with Conditions.

The following Board members participated in the hearing and voted on the decision: Stephen DeFeo, Michael Comei, Neal Hunter, Shadi Kasis, and Heather Plunkett.

This approval is granted subject to the accuracy of the information, reports and data presented. In the instance where the Board is of the belief that this material was inaccurate as presented or has subsequently become unreliable the Board may conduct a determination hearing to consider requiring further review or mandating current and reliable data and information for subsequent approval.

As required by the City of Methuen Comprehensive Zoning Ordinance Effective July 28, 2008 **Section XI-B(2)**, based upon the applicant's testimony, plans submitted and information provided, the Community Development Board makes the following findings:

- A. The proposal serves social, economic and community needs. The proposed restaurant drive-through will provide a dining option for residents in the City. The project will provide employment opportunities and will provide another taxable use on an a previously undeveloped parcel.
- B. The proposed use will result in no impact on traffic flow. Access to the site will be provided by way of a driveway off Haverhill Street opposite Madison Street. A second curb cut for exit only is also provided approximately 100 feet west of the proposed entrance driveway. Six (6) parking spaces, including one van accessible parking space, will be provided. The onsite parking will be for employees and customers who wish to park on site and order at the outdoor walk-up order window. A cross walk with stripping has been provided leading from the parking spaces to the proposed restaurant to allow for the safe egress of customers and employees from the parking area to the building.
- C. The proposed use will utilize no public services. Utilities servicing the proposed drive-through, as shown on the site plan, are available along the frontage of the property and include water, sewer, and electric.
- D. The neighborhood character and social structure will not be impacted by the proposal. The neighborhood is a mix of single and multi-family homes and businesses. The proposed use is consistent with the surrounding small businesses in the neighborhood.
- E. The proposed use has no impact on the natural environment. The site is currently partially developed. Efforts have been made to minimize the impacts to the existing wooded area to the extent possible.
- F. The proposed use will have no impact on City services. The drive-through will provide tax generating business and job opportunities.
- G. The proposal is consistent with the most recent City of Methuen Master Plan.

In accordance with **Section XI-D (12)(d)**, based upon the applicant's testimony, plans submitted, and information provided, the Community Development Board makes the following findings:

- i. The drive-up retail, business or service establishment shall not constitute a nuisance of any type. The drive-through will not have speakers/amplifiers that may be typically found in other drive-through locations and will operate during normal business hours.
- ii. Access to such drive-up service shall conform to Section VI-B-5 Yard Requirements, for all Districts.
- iii. The drive-up retail, business or service establishment shall not operate after Midnight without an additional special permit from the Community Development Board.
- iv. The drive-up retail, business or service establishment complies with the Methuen Municipal Code Article VI Section 9-61. Regulation of Loudspeakers, Amplifiers, and Paging Systems.

SPECIAL CONDITIONS:

The Community Development Board finds that this project generally complies with the City of Methuen Zoning Ordinance requirements as listed in Section XI-D (12) but requires conditions to be fully in compliance. The Community Development Board hereby grants an approval to the applicant provided the following conditions are met:

- 1) **Prior to the endorsement of the plans** by the Community Development Board, the Project Owner must comply with the following:
 - a) The final plans must be reviewed and approved for accuracy and conformance with the terms of this Approval by the City's Engineering Department, the City's Peer Review consultant (as may be required by the Board), and the Community Development Department. The final plans must be revised in accordance with comments received by the City of Methuen staff members and peer review agents as follows:
 - i) The Applicant will provide additional information regarding the occupancy of the parking lot for the adjacent building located east of the Project along Haverhill Street and its potential impact on the Applicant's driveway sight lines for review by the Board's traffic consultant.
 - ii) The Applicant will provide a parking stall striping plan for potential future public parking spaces in front of the building on Haverhill Street to accommodate additional parking demand if needed in the future.
 - iii) The revised truck turning analysis shows that the fire apparatus can access the site narrowly with rear tire track to sweep over the curb lines in the northeast corner of the proposed building while entering from the east site driveway. The shoulder in the northwest corner of the site shall be kept clear of anything that may interfere with the fire truck's ability to make that turn around the rear of the building and shall be noted on the site plans.
- 2) **Prior to the start of any site work and building permit issuance:**
 - a) The Community Development Board must endorse the final site plan mylars and three (3) copies of the signed, recorded plans must be delivered to the Community Development Office.
 - b) One certified copy of the recorded decision must be submitted to the Community Development Office.
 - c) A bond in the amount of **five thousand (\$5,000) dollars** shall be posted for the purpose of insuring that the site is constructed in accordance with the approved

plan and that a final as-built plan is provided showing the location of all on-site structures.

- d) The revised car queuing detail demonstrates that the drive-through lane can accommodate nine (9) cars in queue. The Applicant shall provide information based upon actual observations regarding the number of vehicles in queue at similar Aroma Joe's facilities during morning peak demand to confirm that the nine (9) vehicle queue provided is sufficient.
- e) Prior to any construction activity of any kind associated with the project, the Project Owner shall submit to the Community Development Department a proposed phased construction sequence schedule (timetable/bar chart), said schedule to be used as a guide to activities within the development including construction of roadways, utilities, drainage system, stabilization, earth removal and stockpiling. This schedule once established shall not be deviated from and may only be modified by agreement between the Project Owner and the Community Development Department.
- f) A pre-construction meeting must be held with the developer, their construction employees, Community Development Department, and other applicable departments to discuss scheduling of inspections to be conducted on the project and the construction schedule.
- g) The Project Owner will provide supervisory contact personnel along with emergency telephone numbers that are answered on a 24-hour basis (answering machines or voice mail are not acceptable).

3) During Construction:

- a) Construction activities on the site shall conform to the City of Methuen's Ordinances relating to such work.
- b) Construction activities shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down, or other proper storage and disposal methods.
- c) It shall be the responsibility of the Applicant to assure that no erosion from the construction site shall occur which will cause deposition of soil or sediment upon adjacent properties or public ways, except as normally ancillary to off-site construction. Off-site erosion will be a basis for the Community Development Board making a finding that the project is not in compliance with the plan; provided however, that the Community Development Board shall give the Applicant written notice of any such finding and ten days to cure said condition.

4) Prior to the Issuance of the Certificate of Occupancy:

- a)** The Project Owner must submit a letter from the engineer of the project stating that the building, landscaping, lighting, and site layout substantially comply with the plans referenced in this decision as endorsed by the Community Development Board.
- b)** A final as-built plan showing final topography, the location of all on-site utilities, structures, curb cuts, parking spaces and drainage facilities, including invert elevation of all storm water structures shall be submitted to the Community Development Department and the Engineering Department for review and approval.
- c)** If all site related issues, including landscaping, have not been completed at the time the building itself is ready for occupancy, the Community Development Board may authorize the Project Owner to post a security sufficient in the opinion of the Community Development Board, to cover the cost of the City of completing the remaining site items.

5) Prior to the final release of all funds: The Community Development Board must, by majority vote, make finding that the site is in conformance with the approved plan and decision.

6) Other Conditions:

- a)** **Due to the limited room on the project site, deliveries and dumpster service must be scheduled outside hours of operation where feasible.**
- b)** To reduce noise levels the Project Owner shall keep in optimum working order, through regular maintenance, any and all equipment that shall emanate sounds from the structures or site.
- c)** Any plants, trees, or shrubs that have been incorporated into the Landscaping Plan approved in this decision that die within two years from the date of planting shall be replaced by the owner. All plantings and screening depicted on the approved plans shall remain in perpetuity over the life of the project.
- d)** Within five (5) days of the transfer of ownership of this site in whole or in part, the Project Owner shall notify the Community Development Department of the name and address of the new owner(s). The Project Owner shall provide the new owner(s) with a copy of these conditions.

7) The Community Development Board hereby reserves the right to serve notice on applicant of a cease and desist work order should a violation of the endorsement,

the approval, the conditions or the restrictions be found to exist. Such cease and desist work order, when served in writing, directing itself to the violation occurring, shall act to prohibit any and all work on the areas as mentioned in such order.

- 8) This Special Permit shall be deemed to have lapsed two years after the date of the grant of this approval if a substantial use thereof has not sooner commenced, except for good cause. Such approval may, for good cause, be extended in writing by the Community Development Board upon the written request of the applicant.
- 9) The following documents and plans shall be deemed part of the decision:
 - a) Proposed Site Plan, Aroma Joe's Drive-Through, Haverhill Street, Methuen, Massachusetts; Owner of record: Charles F. Perrault; Applicant: Amigos Coffee, LLC; prepared by Andover Consultants Inc.; dated July 31, 2023. Rev. through 12/26/2023 as may be revised by this decision.
 - b) Stormwater Report Haverhill Street (VP) Methuen, Massachusetts; July 31, 2023, rev. November 2, 2023; prepared for Amigos Coffee, LLC; prepared by Andover Consultants Inc.
 - c) Traffic Impact and Access Study; proposed Aroma Joe's, 79 Haverhill Street, Methuen, MA; August 1, 2023; prepared for Amigos Coffee, LLC; prepared by Bayside Engineering.

